

## SCHEDULES

### SCHEDULE 1

Section 17

#### POWERS OF MEMBERS OF STAFF OF SERIOUS FRAUD OFFICE

- 1 The Proceeds of Crime Act 2002 is amended as follows.
- 2 (1) Section 2C (prosecuting authorities) is amended as follows.
  - (2) In subsection (2) after “Part” insert “2, 4,”.
  - (3) In subsection (3) after “Part” insert “2, 4,”.
- 3 In section 47A (meaning of “appropriate officer” for purposes of search and seizure powers under Part 2 of that Act), in subsection (1)—
  - (a) omit “or” at the end of paragraph (b), and
  - (b) after that paragraph insert—
    - “(ba) an SFO officer, or”.
- 4 In section 47G (meaning of “appropriate approval” for purposes of section 47C etc), in subsection (3) after paragraph (ab) insert—
  - “(ac) in relation to the exercise of a power by an SFO officer, the Director of the Serious Fraud Office,”.
- 5 In section 47M (further detention in other cases where property is detained under section 47J), in subsection (3) after paragraph (b) insert—
  - “(ba) an SFO officer,”.
- 6 In section 47S (codes of practice), after subsection (2) insert—
  - “(2A) The Secretary of State must also consult the Attorney General about the draft in its application to the exercise of powers by SFO officers and the Director of the Serious Fraud Office.”
- 7 In section 195A (meaning of “appropriate officer” for purposes of search and seizure powers under Part 4 of that Act), in subsection (1)—
  - (a) omit “or” at the end of paragraph (b), and
  - (b) after that paragraph insert—
    - “(ba) an SFO officer, or”.
- 8 In section 195G (meaning of “appropriate approval” for purposes of section 195C etc), in subsection (3) after paragraph (ab) insert—
  - “(ac) in relation to the exercise of a power by an SFO officer, the Director of the Serious Fraud Office,”.
- 9 In section 195M (further detention in other cases where property is detained under section 195J), in subsection (3) after paragraph (b) insert—
  - “(ba) an SFO officer,”.
- 10 (1) Section 195S (codes of practice: Secretary of State) is amended as follows.

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- (2) In subsection (1)—
  - (a) in paragraph (a) for “and immigration officers” substitute “, immigration officers and SFO officers”, and
  - (b) in paragraph (c) after “immigration officers” insert “, SFO officers”.
- (3) In subsection (1A), after paragraph (b) insert—
  - “(c) the Director of the Serious Fraud Office.”
- (4) After subsection (2) insert—
  - “(2A) The Secretary of State must also consult the Attorney General about the draft in its application to the exercise of powers by SFO officers and the Director of the Serious Fraud Office.”
- 11 (1) Section 289 (searches) is amended as follows.
  - (2) In subsection (1) after “constable” insert “, an SFO officer”.
  - (3) In subsection (1A)—
    - (a) in paragraph (a) after “constable” insert “, an SFO officer”;
    - (b) in paragraph (b)—
      - (i) after “officer” insert “of Revenue and Customs”;
      - (ii) after “constable” insert “, SFO officer”.
  - (4) In subsection (1C)—
    - (a) after “constable”, in both places where it occurs, insert “, SFO officer”;
    - (b) after “officer”, in the second place where it occurs, insert “of Revenue and Customs”.
  - (5) In subsection (1D)—
    - (a) after “constable”, in both places where it occurs, insert “, SFO officer”;
    - (b) after “officer”, in the second place where it occurs, insert “of Revenue and Customs”.
  - (6) In subsection (2) after “constable” insert “, an SFO officer”.
  - (7) In subsection (3) after “constable” insert “, SFO officer”.
  - (8) In subsection (4) after “constable” insert “, SFO officer”.
  - (9) In subsection (5), in paragraph (c) after “an” insert “SFO officer or”.
- 12 (1) Section 290 (prior approval) is amended as follows.
  - (2) In subsection (4), after paragraph (a) insert—
    - “(aa) in relation to the exercise of a power by an SFO officer, the Director of the Serious Fraud Office.”
  - (3) In subsection (6), after “constable” insert “, SFO officer”.
- 13 In section 291 (report on exercise of powers), in subsection (2) after “constable” insert “, SFO officer”.
- 14 (1) Section 292 (code of practice) is amended as follows.
  - (2) In subsection (1) after “Customs” insert “, SFO officers”.

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- (3) After subsection (2) insert—
- “(2A) The Secretary of State must also consult the Attorney General about the draft in its application to the exercise of powers by SFO officers and the Director of the Serious Fraud Office.”
- (4) In subsection (6) after “Customs,” insert “an SFO officer,”.
- 15 (1) Section 294 (seizure of cash) is amended as follows.
- (2) In subsection (1) after “constable” insert “, an SFO officer”.
- (3) In subsection (2) after “constable” insert “, an SFO officer”.
- (4) In subsection (4) after “by” insert “an SFO officer or”.
- 16 (1) Section 295 (detention of seized cash) is amended as follows.
- (2) In subsection (1) after “constable” insert “, SFO officer”.
- (3) In subsection (4)(a) after “constable” insert “, an SFO officer”.
- 17 In section 296 (interest), in subsection (2) after “constable” insert “, SFO officer”.
- 18 In section 297 (release of detained cash), in subsection (4) after “constable” insert “, SFO officer”.
- 19 In section 297A (forfeiture notice), in subsection (6)—
- (a) omit “or” at the end of paragraph (b), and
- (b) after that paragraph insert—
- “(ba) the Director of the Serious Fraud Office, or”.
- 20 In section 297D (detention following lapse of notice), in subsection (3) after “constable” insert “, an SFO officer”.
- 21 In section 297F (release of cash subject to forfeiture notice), in subsection (4) after “constable” insert “, SFO officer”.
- 22 In section 298 (forfeiture), in subsection (1)(a) for “or a constable” substitute “, a constable or an SFO officer”.
- 23 In section 302 (compensation), after subsection (7) insert—
- “(7ZA) If the cash was seized by an SFO officer, the compensation is to be paid by the Director of the Serious Fraud Office.”
- 24 In section 377A (code of practice of Attorney General etc), in subsection (1)(a) after “Prosecutions” insert “, SFO officers”.
- 25 (1) Section 378 (appropriate officers and senior appropriate officers for the purposes of investigations under Part 8 of that Act) is amended as follows.
- (2) In subsection (1) after paragraph (c) insert—
- “(ca) an SFO officer;”.
- (3) In subsection (2) after paragraph (b) insert—
- “(ba) the Director of the Serious Fraud Office;”.
- (4) In subsection (3A) after paragraph (a) insert—
- “(aa) an SFO officer;”.

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- (5) In subsection (3AA) after paragraph (a) insert—  
“(aa) the Director of the Serious Fraud Office;”.
- (6) In subsection (4) after paragraph (b) insert—  
“(ba) an SFO officer;”.
- (7) In subsection (6) after paragraph (a) insert—  
“(aa) the Director of the Serious Fraud Office;”.
- 26 After section 454 insert—

**“454A Serious Fraud Office**

For the purposes of this Act “SFO officer” means a member of staff of the Serious Fraud Office.”

SCHEDULE 2

Section 35

DISCLOSURE ORDERS

- 1 The Terrorism Act 2000 is amended as follows.
- 2 After section 37 insert—

**“37A Disclosure orders in relation to terrorist financing investigations**

Schedule 5A (terrorist financing investigations: disclosure orders) has effect.”

- 3 After Schedule 5 insert—

“SCHEDULE  
5A

TERRORIST FINANCING INVESTIGATIONS: DISCLOSURE ORDERS

**PART 1**

ENGLAND AND WALES AND NORTHERN IRELAND

**Interpretation**

- 1 This paragraph applies for the purposes of this Part of this Schedule.
- 2 A disclosure order is an order made under paragraph 9.
- 3 A judge is—  
(a) in England and Wales, a judge entitled to exercise the jurisdiction of the Crown Court;  
(b) in Northern Ireland, a Crown Court judge.
- 4 A terrorist financing investigation is a terrorist investigation into—

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- (a) the commission, preparation or instigation of an offence under any of sections 15 to 18, or
  - (b) the identification of terrorist property or its movement or use.
- 5 An appropriate officer is—
- (a) a constable, or
  - (b) a counter-terrorism financial investigator.
- 6 A senior police officer is a police officer of at least the rank of superintendent.
- 7 “Document” means anything in which information of any description is recorded.
- 8 “Excluded material”—
- (a) in relation to England and Wales, has the same meaning as in the Police and Criminal Evidence Act 1984;
  - (b) in relation to Northern Ireland, has the same meaning as in the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)).

### **Disclosure orders**

- 9 (1) A judge may, on the application of an appropriate officer, make a disclosure order if satisfied that each of the requirements for the making of the order is fulfilled.
- (2) The application must state that a person or property specified in the application is subject to a terrorist financing investigation and the order is sought for the purposes of the investigation.
- (3) A disclosure order is an order authorising an appropriate officer to give to any person the officer considers has relevant information notice in writing requiring the person to do any or all of the following with respect to any matter relevant to the terrorist financing investigation concerned—
- (a) answer questions, either at a time specified in the notice or at once, at a place so specified;
  - (b) provide information specified in the notice, by a time and in a manner so specified;
  - (c) produce documents, or documents of a description, specified in the notice, either at or by a time so specified or at once, and in a manner so specified.
- (4) Relevant information is information (whether or not contained in a document) which the appropriate officer concerned considers to be relevant to the investigation.
- (5) A person is not bound to comply with a requirement imposed by a notice given under a disclosure order unless evidence of authority to give the notice is produced.
- (6) An appropriate officer may not make an application under this paragraph unless the officer is a senior police officer or is authorised to do so by a senior police officer.

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### Requirements for making of disclosure order

- 10 (1) These are the requirements for the making of a disclosure order.
- (2) There must be reasonable grounds for suspecting that a person has committed an offence under any of sections 15 to 18 or that the property specified in the application is terrorist property.
- (3) There must be reasonable grounds for believing that information which may be provided in compliance with a requirement imposed under the order is likely to be of substantial value (whether or not by itself) to the terrorist financing investigation concerned.
- (4) There must be reasonable grounds for believing that it is in the public interest for the information to be provided, having regard to the benefit likely to accrue to the investigation if the information is obtained.

### Offences

- 11 (1) A person commits an offence if without reasonable excuse the person fails to comply with a requirement imposed under a disclosure order.
- (2) A person guilty of an offence under sub-paragraph (1) is liable—
- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 51 weeks, or to a fine, or to both;
- (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding level 5 on the standard scale, or to both.
- (3) A person commits an offence if, in purported compliance with a requirement imposed under a disclosure order, the person—
- (a) makes a statement which the person knows to be false or misleading in a material particular, or
- (b) recklessly makes a statement which is false or misleading in a material particular.
- (4) A person guilty of an offence under sub-paragraph (3) is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or to both;
- (b) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months, or to a fine, or to both;
- (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding the statutory maximum, or to both.
- (5) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for certain summary offences), the reference in sub-paragraph (2)(a) to 51 weeks is to be read as a reference to 6 months.
- (6) In relation to an offence committed before the coming into force of section 282 of the Criminal Justice Act 2003 (increase in maximum sentence on summary conviction of offence triable either way), the

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reference in sub-paragraph (4)(b) to 12 months is to be read as a reference to 6 months.

### Statements

- 12 (1) A statement made by a person in response to a requirement imposed under a disclosure order may not be used in evidence against that person in criminal proceedings.
- (2) Sub-paragraph (1) does not apply—
- (a) in the case of proceedings under this Part of this Act (including paragraph 11(1) or (3)),
  - (b) on a prosecution for an offence under section 5 of the Perjury Act 1911 or Article 10 of the Perjury (Northern Ireland) Order 1979 (S.I. 1979/1714 (N.I. 19)) (false statements), or
  - (c) on a prosecution for some other offence where, in giving evidence, the person makes a statement inconsistent with the statement mentioned in sub-paragraph (1).
- (3) A statement may not be used by virtue of sub-paragraph (2)(c) against a person unless—
- (a) evidence relating to it is adduced, or
  - (b) a question relating to it is asked,
- by or on behalf of the person in the proceedings arising out of the prosecution.

### Further provisions

- 13 (1) A disclosure order does not confer the right to require a person—
- (a) to answer any privileged question,
  - (b) to provide any privileged information, or
  - (c) to produce any privileged document or other material,
- except that a lawyer may be required to provide the name and address of a client.
- (2) For the purposes of sub-paragraph (1)—
- (a) a privileged question is a question which the person would be entitled to refuse to answer on grounds of legal professional privilege in proceedings in the High Court;
  - (b) privileged information is any information which the person would be entitled to refuse to provide on grounds of legal professional privilege in proceedings in the High Court;
  - (c) a privileged document or other material is any document or material which the person would be entitled to refuse to produce on grounds of legal professional privilege in proceedings in the High Court.
- (3) A disclosure order does not confer the right to require a person to produce excluded material.
- (4) A disclosure order has effect in spite of any restriction on the disclosure of information (however imposed).

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- (5) An appropriate officer may take copies of any documents produced in compliance with a requirement to produce them imposed under a disclosure order.
- (6) The documents may be retained for so long as it is necessary to retain them (as opposed to a copy of them) in connection with the terrorist financing investigation for the purposes of which the order was made.
- (7) But if an appropriate officer has reasonable grounds for believing that—
  - (a) the documents may need to be produced for the purposes of any legal proceedings, and
  - (b) they might otherwise be unavailable for those purposes,
 they may be retained until the proceedings are concluded.
- (8) An appropriate officer may retain documents under sub-paragraph (7) only if the officer is a senior police officer or is authorised to do so by a senior police officer.

### **Supplementary**

- 14 (1) An application for a disclosure order may be made without notice to a judge in chambers.
- (2) Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings relating to disclosure orders.
- (3) An application to discharge or vary a disclosure order may be made to the Crown Court by—
  - (a) the person who applied for the order;
  - (b) any person affected by the order.
- (4) The Crown Court may—
  - (a) discharge the order;
  - (b) vary the order.
- (5) An application to discharge or vary a disclosure order need not be made by the same appropriate officer that applied for the order.
- (6) References to a person who applied for a disclosure order are to be construed accordingly.
- (7) An appropriate officer may not make an application to discharge or vary a disclosure order unless the officer is a senior police officer or is authorised to do so by a senior police officer.”

4 After Part 1 of Schedule 5A (as inserted by paragraph 3 above) insert—



## “PART 2

### SCOTLAND

#### **Interpretation**

- 15 This paragraph applies for the purposes of this Part of this Schedule.
- 16 A disclosure order is an order made under paragraph 19.
- 17 A terrorist financing investigation is a terrorist investigation into—
- (a) the commission, preparation or instigation of an offence under any of sections 15 to 18, or
  - (b) the identification of terrorist property or its movement or use.
- 18 “Document” means anything in which information of any description is recorded.

#### **Disclosure orders**

- 19 (1) The High Court of Justiciary may, on the application of the Lord Advocate, make a disclosure order if satisfied that each of the requirements for the making of the order is fulfilled.
- (2) The application must state that a person or property specified in the application is subject to a terrorist financing investigation and the order is sought for the purposes of the investigation.
- (3) A disclosure order is an order authorising the Lord Advocate to give to any person the Lord Advocate considers has relevant information notice in writing requiring the person to do any or all of the following with respect to any matter relevant to the terrorist financing investigation concerned—
- (a) answer questions, either at a time specified in the notice or at once, at a place so specified;
  - (b) provide information specified in the notice, by a time and in a manner so specified;
  - (c) produce documents, or documents of a description, specified in the notice, either at or by a time so specified or at once, and in a manner so specified.
- (4) Relevant information is information (whether or not contained in a document) which the Lord Advocate considers to be relevant to the investigation.
- (5) A person is not bound to comply with a requirement imposed by a notice given under a disclosure order unless evidence of authority to give the notice is produced.

#### **Requirements for making of disclosure order**

- 20 (1) These are the requirements for the making of a disclosure order.

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- (2) There must be reasonable grounds for suspecting that a person has committed an offence under any of sections 15 to 18 or that the property specified in the application is terrorist property.
- (3) There must be reasonable grounds for believing that information which may be provided in compliance with a requirement imposed under the order is likely to be of substantial value (whether or not by itself) to the terrorist financing investigation concerned.
- (4) There must be reasonable grounds for believing that it is in the public interest for the information to be provided, having regard to the benefit likely to accrue to the investigation if the information is obtained.

### **Offences**

- 21
- (1) A person commits an offence if without reasonable excuse the person fails to comply with a requirement imposed under a disclosure order.
  - (2) A person guilty of an offence under sub-paragraph (1) is liable on summary conviction to—
    - (a) imprisonment for a term not exceeding 6 months,
    - (b) a fine not exceeding level 5 on the standard scale, or
    - (c) both.
  - (3) A person commits an offence if, in purported compliance with a requirement imposed under a disclosure order, the person—
    - (a) makes a statement which the person knows to be false or misleading in a material particular, or
    - (b) recklessly makes a statement which is false or misleading in a material particular.
  - (4) A person guilty of an offence under sub-paragraph (3) is liable—
    - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum or to both, or
    - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

### **Statements**

- 22
- (1) A statement made by a person in response to a requirement imposed under a disclosure order may not be used in evidence against that person in criminal proceedings.
  - (2) Sub-paragraph (1) does not apply—
    - (a) in the case of proceedings under this Part of this Act (including paragraph 21(1) or (3)),
    - (b) on a prosecution for perjury, or
    - (c) on a prosecution for some other offence where, in giving evidence, the person makes a statement inconsistent with the statement mentioned in sub-paragraph (1).

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- (3) A statement may not be used by virtue of sub-paragraph (2)(c) against a person unless—
- (a) evidence relating to it is adduced, or
  - (b) a question relating to it is asked,
- by or on behalf of the person in the proceedings arising out of the prosecution.

### **Further provisions**

- 23 (1) A disclosure order does not confer the right to require a person—
- (a) to answer any question,
  - (b) to provide any information, or
  - (c) to produce any document,
- which the person would be entitled to refuse to answer, provide or produce on grounds of legal privilege.
- (2) A disclosure order has effect in spite of any restriction on the disclosure of information (however imposed).
- (3) The Lord Advocate may take copies of any documents produced in compliance with a requirement to produce them imposed under a disclosure order.
- (4) The documents may be retained for so long as it is necessary to retain them (as opposed to a copy of them) in connection with the terrorist financing investigation for the purposes of which the order was made.
- (5) But if the Lord Advocate has reasonable grounds for believing that—
- (a) the documents may need to be produced for the purposes of any legal proceedings, and
  - (b) they might otherwise be unavailable for those purposes,
- they may be retained until the proceedings are concluded.

### **Supplementary**

- 24 (1) An application for a disclosure order may be made without notice to a judge of the High Court of Justiciary.
- (2) Provision may be made in rules of court as to the discharge and variation of disclosure orders.
- (3) An application to discharge or vary a disclosure order may be made to the High Court of Justiciary by—
- (a) the Lord Advocate;
  - (b) any person affected by the order.
- (4) The High Court of Justiciary may—
- (a) discharge the order;
  - (b) vary the order.”

## SCHEDULE 3

Section 39

### FORFEITURE OF CERTAIN PERSONAL (OR MOVEABLE) PROPERTY

- 1 Schedule 1 to the Anti-terrorism, Crime and Security Act 2001 (forfeiture of  
terrorist cash) is amended as follows.
- 2 After paragraph 10 insert—

### “PART 4A

#### FORFEITURE OF TERRORIST ASSETS

#### **Definition of “listed asset”**

- 10A (1) In this Part of this Schedule, a “listed asset” means an item of property that falls within one of the following descriptions of property—
- (a) precious metals;
  - (b) precious stones;
  - (c) watches;
  - (d) artistic works;
  - (e) face-value vouchers;
  - (f) postage stamps.
- (2) The Secretary of State may by regulations made by statutory instrument amend sub-paragraph (1)—
- (a) by removing a description of property;
  - (b) by adding a description of tangible personal (or corporeal moveable) property.
- (3) A statutory instrument containing regulations under sub-paragraph (2) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (4) In this paragraph—
- (a) “precious metal” means gold, silver or platinum (whether in an unmanufactured or a manufactured state);
  - (b) “artistic work” means a piece of work falling within section 4(1)(a) of the Copyright, Designs and Patents Act 1988;
  - (c) “face-value voucher” means a voucher in physical form that represents a right to receive goods or services to the value of an amount stated on it.

#### **Seizure of listed assets**

- 10B (1) An authorised officer may seize any item of property if the authorised officer has reasonable grounds for suspecting that—
- (a) it is a listed asset, and
  - (b) it is within subsection (1)(a) or (b) of section 1 or it is property earmarked as terrorist property.
- (2) An authorised officer may also seize any item of property if—

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- (a) the authorised officer has reasonable grounds for suspecting the item to be a listed asset,
- (b) the authorised officer has reasonable grounds for suspecting that part of the item is within subsection (1)(a) or (b) of section 1 or is property earmarked as terrorist property, and
- (c) it is not reasonably practicable to seize only that part.

### **Initial detention of seized property**

- 10C (1) Property seized under paragraph 10B may be detained for an initial period of 48 hours.
- (2) Sub-paragraph (1) authorises the detention of property only for so long as an authorised officer continues to have reasonable grounds for suspicion in relation to that property as described in paragraph 10B(1) or (2) (as the case may be).
- (3) In calculating a period of hours for the purposes of this paragraph, no account shall be taken of—
- (a) any Saturday or Sunday,
  - (b) Christmas Day,
  - (c) Good Friday,
  - (d) any day that is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom within which the property is seized, or
  - (e) any day prescribed under section 8(2) of the Criminal Procedure (Scotland) Act 1995 as a court holiday in a sheriff court in the sheriff court district within which the property is seized.

### **Further detention of seized property**

- 10D (1) The period for which property seized under paragraph 10B, or any part of that property, may be detained may be extended by an order made—
- (a) in England and Wales or Northern Ireland, by a magistrates' court;
  - (b) in Scotland, by the sheriff.
- (2) An order under sub-paragraph (1) may not authorise the detention of any property—
- (a) beyond the end of the period of 6 months beginning with the date of the order, and
  - (b) in the case of any further order under this paragraph, beyond the end of the period of 2 years beginning with the date of the first order.
- (3) A justice of the peace may also exercise the power of a magistrates' court to make the first order under sub-paragraph (1) extending a particular period of detention.
- (4) An application to a magistrates' court, a justice of the peace or the sheriff to make the first order under sub-paragraph (1) extending a particular period of detention—

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- (a) may be made and heard without notice of the application or hearing having been given to any of the persons affected by the application or to the legal representatives of such a person, and
  - (b) may be heard and determined in private in the absence of persons so affected and of their legal representatives.
- (5) An application for an order under sub-paragraph (1) may be made—
  - (a) in relation to England and Wales and Northern Ireland, by the Commissioners for Her Majesty’s Revenue and Customs or an authorised officer;
  - (b) in relation to Scotland, by a procurator fiscal.
- (6) The court, sheriff or justice may make the order if satisfied, in relation to the item of property to be further detained, that—
  - (a) it is a listed asset, and
  - (b) condition 1, condition 2 or condition 3 is met.
- (7) Condition 1 is that there are reasonable grounds for suspecting that the property is intended to be used for the purposes of terrorism and that either—
  - (a) its continued detention is justified while its intended use is further investigated or consideration is given to bringing (in the United Kingdom or elsewhere) proceedings against any person for an offence with which the property is connected, or
  - (b) proceedings against any person for an offence with which the property is connected have been started and have not been concluded.
- (8) Condition 2 is that there are reasonable grounds for suspecting that the property consists of resources of an organisation which is a proscribed organisation and that either—
  - (a) its continued detention is justified while investigation is made into whether or not it consists of such resources or consideration is given to bringing (in the United Kingdom or elsewhere) proceedings against any person for an offence with which the property is connected, or
  - (b) proceedings against any person for an offence with which the property is connected have been started and have not been concluded.
- (9) Condition 3 is that there are reasonable grounds for suspecting that the property is property earmarked as terrorist property and that either—
  - (a) its continued detention is justified while its derivation is further investigated or consideration is given to bringing (in the United Kingdom or elsewhere) proceedings against any person for an offence with which the property is connected, or
  - (b) proceedings against any person for an offence with which the property is connected have been started and have not been concluded.
- (10) Where an application for an order under sub-paragraph (1) relates to an item of property seized under paragraph 10B(2), the court, sheriff or justice may make the order if satisfied that—

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- (a) the item of property is a listed asset,
  - (b) condition 1, 2 or 3 is met in respect of part of the item, and
  - (c) it is not reasonably practicable to detain only that part.
- (11) An order under sub-paragraph (1) must provide for notice to be given to persons affected by it.

### **Testing and safekeeping of property seized under paragraph 10B**

- 10E (1) An authorised officer may carry out (or arrange for the carrying out of) tests on any item of property seized under paragraph 10B for the purpose of establishing whether it is a listed asset.
- (2) An authorised officer must arrange for any item of property seized under paragraph 10B to be safely stored throughout the period during which it is detained under this Part of this Schedule.

### **Release of detained property**

- 10F (1) This paragraph applies while any property is detained under this Part of this Schedule.
- (2) A magistrates' court or (in Scotland) the sheriff may direct the release of the whole or any part of the property if satisfied, on an application by the person from whom the property was seized, that the conditions in paragraph 10C or 10D (as the case may be) for the detention of the property are no longer met in relation to the property to be released.
- (3) An authorised officer or (in Scotland) a procurator fiscal may, after notifying the magistrates' court, sheriff or justice under whose order property is being detained, release the whole or any part of it if satisfied that the detention of the property to be released is no longer justified.
- (4) But property is not to be released under this paragraph—
- (a) if an application for its release under paragraph 10O is made, until any proceedings in pursuance of the application (including any proceedings on appeal) are concluded;
  - (b) if (in the United Kingdom or elsewhere) proceedings are started against any person for an offence with which the property is connected, until the proceedings are concluded.

See also paragraph 10G(7).

### **Forfeiture**

- 10G (1) While property is detained under this Part of this Schedule, an application for the forfeiture of the whole or any part of it may be made—
- (a) to a magistrates' court, by the Commissioners for Her Majesty's Revenue and Customs or an authorised officer;
  - (b) to the sheriff, by the Scottish Ministers.
- (2) The court or sheriff may order the forfeiture of the property or any part of it if satisfied that—
- (a) the property is a listed asset, and

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- (b) what is to be forfeited is within subsection (1)(a) or (b) of section 1 or is property earmarked as terrorist property.
- (3) An order under sub-paragraph (2) made by a magistrates' court may provide for payment under paragraph 10N of reasonable legal expenses that a person has reasonably incurred, or may reasonably incur, in respect of—
  - (a) the proceedings in which the order is made, or
  - (b) any related proceedings under this Part of this Schedule.
- (4) A sum in respect of a relevant item of expenditure is not payable under paragraph 10N in pursuance of provision under sub-paragraph (3) unless—
  - (a) the person who applied for the order under sub-paragraph (2) agrees to its payment, or
  - (b) the court has assessed the amount allowed in respect of that item and the sum is paid in respect of the assessed amount.
- (5) For the purposes of sub-paragraph (4)—
  - (a) a “relevant item of expenditure” is an item of expenditure to which regulations under section 286B of the Proceeds of Crime Act 2002 would apply if the order under sub-paragraph (2) had instead been a recovery order made under section 266 of that Act;
  - (b) an amount is “allowed” in respect of a relevant item of expenditure if it would have been allowed by those regulations;
  - (c) if the person who applied for the order under sub-paragraph (2) was an authorised officer, that person may not agree to the payment of a sum unless the person is a senior officer or is authorised to do so by a senior officer.
- (6) Sub-paragraph (2) ceases to apply on the transfer of an application made under this paragraph in accordance with paragraph 10J(1)(a) or (b).
- (7) Where an application for the forfeiture of any property is made under this paragraph, the property is to be detained (and may not be released under any power conferred by this Part of this Schedule) until any proceedings in pursuance of the application (including any proceedings on appeal) are concluded.
- (8) Where the property to which the application relates is being detained under this Part of this Schedule as part of an item of property, having been seized under paragraph 10B(2), sub-paragraph (7) is to be read as if it required the continued detention of the whole of the item of property.
- (9) For the purposes of sub-paragraph (5)(c), a “senior officer” means—
  - (a) in relation to an application made by a constable or a counter-terrorism financial investigator, a senior police officer;
  - (b) in relation to an application made by an officer of Revenue and Customs, such an officer of a rank designated by the Commissioners for Her Majesty's Revenue and Customs as equivalent to that of a senior police officer;



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- (c) in relation to an application made by an immigration officer, such an officer of a rank designated by the Secretary of State as equivalent to that of a senior police officer.
- (10) In sub-paragraph (9), a “senior police officer” means a police officer of at least the rank of superintendent.

### **Associated and joint property**

- 10H (1) Paragraphs 10I and 10J apply if—
- (a) an application is made under paragraph 10G in respect of property detained under this Part of this Schedule,
  - (b) the court or sheriff is satisfied that the property is a listed asset,
  - (c) the court or sheriff is satisfied that all or part of the property is within subsection (1)(a) or (b) of section 1 or is property earmarked as terrorist property, and
  - (d) there exists property that is associated with the property in relation to which the court or sheriff is satisfied as mentioned in paragraph (c).
- (2) Paragraphs 10I and 10J also apply in England and Wales and Northern Ireland if—
- (a) an application is made under paragraph 10G in respect of property detained under this Part of this Schedule,
  - (b) the court is satisfied that the property is a listed asset,
  - (c) the court is satisfied that all or part of the property is property earmarked as terrorist property, and
  - (d) the property in relation to which the court or sheriff is satisfied as mentioned in paragraph (c) belongs to joint tenants and one of the tenants is an excepted joint owner.
- (3) In this paragraph and paragraphs 10I and 10J “associated property” means property of any of the following descriptions that is not itself the forfeitable property—
- (a) any interest in the forfeitable property;
  - (b) any other interest in the property in which the forfeitable property subsists;
  - (c) if the forfeitable property is a tenancy in common, the tenancy of the other tenant;
  - (d) if (in Scotland) the forfeitable property is owned in common, the interest of the other owner;
  - (e) if the forfeitable property is part of a larger property, but not a separate part, the remainder of that property.

References to property being associated with forfeitable property are to be read accordingly.

- (4) In this paragraph and paragraphs 10I and 10J the “forfeitable property” means the property in relation to which the court or sheriff is satisfied as mentioned in sub-paragraph (1)(c) or (2)(c) (as the case may be).
- (5) For the purposes of this paragraph and paragraphs 10I and 10J—

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- (a) an excepted joint owner is a joint tenant who obtained the property in circumstances in which it would not (as against him or her) be earmarked, and
- (b) references to the excepted joint owner's share of property are to so much of the property as would have been his or hers if the joint tenancy had been severed.

### **Agreements about associated and joint property**

- 10I (1) Where—
- (a) this paragraph applies, and
  - (b) the person who applied for the order under paragraph 10G (on the one hand) and the person who holds the associated property or who is the excepted joint owner (on the other hand) agree,
- the magistrates' court or sheriff may, instead of making an order under paragraph 10G(2), make an order requiring the person who holds the associated property or who is the excepted joint owner to make a payment to a person identified in the order.
- (2) The amount of the payment is (subject to sub-paragraph (3)) to be the amount which the persons referred to in sub-paragraph (1)(b) agree represents—
    - (a) in a case where this paragraph applies by virtue of paragraph 10H(1), the value of the forfeitable property;
    - (b) in a case where this paragraph applies by virtue of paragraph 10H(2), the value of the forfeitable property less the value of the excepted joint owner's share.
  - (3) The amount of the payment may be reduced if the person who applied for the order under paragraph 10G agrees that the other party to the agreement has suffered loss as a result of the seizure of the forfeitable property and any associated property under paragraph 10B and its subsequent detention.
  - (4) The reduction that is permissible by virtue of sub-paragraph (3) is such amount as the parties to the agreement agree is reasonable, having regard to the loss suffered and any other relevant circumstances.
  - (5) An order under sub-paragraph (1) may, so far as required for giving effect to the agreement, include provision for vesting, creating or extinguishing any interest in property.
  - (6) An order under sub-paragraph (1) made by a magistrates' court may provide for payment under sub-paragraph (11) of reasonable legal expenses that a person has reasonably incurred, or may reasonably incur, in respect of—
    - (a) the proceedings in which the order is made, or
    - (b) any related proceedings under this Part of this Schedule.
  - (7) A sum in respect of a relevant item of expenditure is not payable under sub-paragraph (11) in pursuance of provision under sub-paragraph (6) unless—

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- (a) the person who applied for the order under paragraph 10G agrees to its payment, or
  - (b) the court has assessed the amount allowed in respect of that item and the sum is paid in respect of the assessed amount.
- (8) For the purposes of sub-paragraph (7)—
- (a) a “relevant item of expenditure” is an item of expenditure to which regulations under section 286B of the Proceeds of Crime Act 2002 would apply if the order under sub-paragraph (1) had instead been a recovery order made under section 266 of that Act;
  - (b) an amount is “allowed” in respect of a relevant item of expenditure if it would have been allowed by those regulations.
- (9) If there is more than one item of associated property or more than one excepted joint owner, the total amount to be paid under sub-paragraph (1), and the part of that amount which is to be provided by each person who holds any such associated property or who is an excepted joint owner, is to be agreed between both (or all) of them and the person who applied for the order under paragraph 10G.
- (10) If the person who applied for the order under paragraph 10G was an authorised officer, that person may enter into an agreement for the purposes of any provision of this paragraph only if the person is a senior officer or is authorised to do so by a senior officer.
- (11) An amount received under an order under sub-paragraph (1) must be applied as follows—
- (a) first, it must be applied in making any payment of legal expenses which, after giving effect to sub-paragraph (7), are payable under this sub-paragraph in pursuance of provision under sub-paragraph (6);
  - (b) second, it must be applied in payment or reimbursement of any reasonable costs incurred in storing or insuring the forfeitable property and any associated property whilst detained under this Part of this Schedule;
  - (c) third, it must be paid—
    - (i) if the order was made by a magistrates’ court, into the Consolidated Fund;
    - (ii) if the order was made by the sheriff, into the Scottish Consolidated Fund.

#### **Associated and joint property: default of agreement**

- 10J (1) Where this paragraph applies and there is no agreement under paragraph 10I, the magistrates’ court or sheriff—
- (a) must transfer the application made under paragraph 10G to the relevant court if satisfied that the value of the forfeitable property and any associated property is £10,000 or more;
  - (b) may transfer the application made under paragraph 10G to the relevant court if satisfied that the value of the forfeitable property and any associated property is less than £10,000.

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- (2) The “relevant court” is—
  - (a) the High Court, where the application under paragraph 10G was made to a magistrates’ court;
  - (b) the Court of Session, where the application under paragraph 10G was made to the sheriff.
- (3) Where (under sub-paragraph (1)(a) or (b)) an application made under paragraph 10G is transferred to the relevant court, the relevant court may order the forfeiture of the property to which the application relates, or any part of that property, if satisfied that—
  - (a) the property is a listed asset, and
  - (b) what is to be forfeited is within subsection (1)(a) or (b) of section 1 or is property earmarked as terrorist property.
- (4) An order under sub-paragraph (3) made by the High Court may include provision of the type that may be included in an order under paragraph 10G(2) made by a magistrates’ court by virtue of paragraph 10G(3).
- (5) If provision is included in an order of the High Court by virtue of sub-paragraph (4) of this paragraph, paragraph 10G(4) and (5) apply with the necessary modifications.
- (6) The relevant court may, as well as making an order under sub-paragraph (3), make an order—
  - (a) providing for the forfeiture of the associated property or (as the case may be) for the excepted joint owner’s interest to be extinguished, or
  - (b) providing for the excepted joint owner’s interest to be severed.
- (7) Where (under sub-paragraph (1)(b)) the magistrates’ court or sheriff decides not to transfer an application made under paragraph 10G to the relevant court, the magistrates’ court or sheriff may, as well as making an order under paragraph 10G(2), make an order—
  - (a) providing for the forfeiture of the associated property or (as the case may be) for the excepted joint owner’s interest to be extinguished, or
  - (b) providing for the excepted joint owner’s interest to be severed.
- (8) An order under sub-paragraph (6) or (7) may be made only if the relevant court, the magistrates’ court or the sheriff (as the case may be) thinks it just and equitable to do so.
- (9) An order under sub-paragraph (6) or (7) must provide for the payment of an amount to the person who holds the associated property or who is an excepted joint owner.
- (10) In making an order under sub-paragraph (6) or (7), and including provision in it by virtue of sub-paragraph (9), the relevant court, the magistrates’ court or the sheriff (as the case may be) must have regard to—
  - (a) the rights of any person who holds the associated property or who is an excepted joint owner and the value to that person of that property or (as the case may) of that person’s share

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- (including any value that cannot be assessed in terms of money),  
and
- (b) the interest of the person who applied for the order under paragraph 10G in realising the value of the forfeitable property.
- (11) If the relevant court, the magistrates' court or the sheriff (as the case may be) is satisfied that—
- (a) the person who holds the associated property or who is an excepted joint owner has suffered loss as a result of the seizure of the forfeitable property and any associated property under paragraph 10B and its subsequent detention, and
- (b) the circumstances are exceptional,
- an order under sub-paragraph (6) or (7) may require the payment of compensation to that person.
- (12) The amount of compensation to be paid by virtue of sub-paragraph (11) is the amount the relevant court, the magistrates' court or the sheriff (as the case may be) thinks reasonable, having regard to the loss suffered and any other relevant circumstances.
- (13) Compensation to be paid by virtue of sub-paragraph (11) is to be paid in the same way that compensation is to be paid under paragraph 10P.

#### **Paragraphs 10G to 10J: appeals**

- 10K (1) Any party to proceedings for an order for the forfeiture of property under paragraph 10G may appeal against—
- (a) the making of an order under paragraph 10G;
- (b) the making of an order under paragraph 10J(7);
- (c) a decision not to make an order under paragraph 10G unless the reason that no order was made is that an order was instead made under paragraph 10I;
- (d) a decision not to make an order under paragraph 10J(7).

Paragraphs (c) and (d) do not apply if the application for the order under paragraph 10G was transferred in accordance with paragraph 10J(1)(a) or (b).

- (2) Where an order under paragraph 10I is made by a magistrates' court, any party to the proceedings for the order (including any party to the proceedings under paragraph 10G that preceded the making of the order) may appeal against a decision to include, or not to include, provision in the order under sub-paragraph (6) of paragraph 10I.
- (3) An appeal under this paragraph lies—
- (a) in relation to England and Wales, to the Crown Court;
- (b) in relation to Scotland, to the Sheriff Appeal Court;
- (c) in relation to Northern Ireland, to a county court.
- (4) An appeal under this paragraph must be made before the end of the period of 30 days starting with the day on which the court makes the order or decision.
- (5) Sub-paragraph (4) is subject to paragraph 10L.

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- (6) The court hearing the appeal may make any order it thinks appropriate.
- (7) If the court upholds an appeal against an order forfeiting property, it may order the release of the whole or any part of the property.

### **Extended time for appealing in certain cases where deproscription order made**

- 10L (1) This paragraph applies where—
- (a) a successful application for an order under paragraph 10G relies (wholly or partly) on the fact that an organisation is proscribed,
  - (b) an application under section 4 of the Terrorism Act 2000 for a deproscription order in respect of the organisation is refused by the Secretary of State,
  - (c) the property forfeited by the order under paragraph 10G was seized under this Part of this Schedule on or after the date of the refusal of that application,
  - (d) an appeal against that refusal is allowed under section 5 of the Terrorism Act 2000,
  - (e) a deproscription order is made accordingly, and
  - (f) if the order is made in reliance on section 123(5) of the Terrorism Act 2000, a resolution is passed by each House of Parliament under section 123(5)(b) of that Act.
- (2) Where this paragraph applies, an appeal under paragraph 10K against the making of an order under paragraph 10G, and against the making (in addition) of any order under paragraph 10J(7), may be brought at any time before the end of the period of 30 days beginning with the date on which the deproscription order comes into force.
- (3) In this paragraph a “deproscription order” means an order under section 3(3)(b) or (8) of the Terrorism Act 2000.

### **Realisation of forfeited property**

- 10M (1) If property is forfeited under paragraph 10G or 10J, an authorised officer must realise the property or make arrangements for its realisation.
- (2) But the property is not to be realised—
- (a) before the end of the period within which an appeal may be made (whether under paragraph 10K or otherwise), or
  - (b) if an appeal is made within that period, before the appeal is determined or otherwise disposed of.
- (3) The realisation of property under sub-paragraph (1) must be carried out, so far as practicable, in the manner best calculated to maximise the amount obtained for the property.

### **Proceeds of realisation**

- 10N (1) The proceeds of property realised under paragraph 10M must be applied as follows—

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- (a) first, they must be applied in making any payment required to be made by virtue of paragraph 10J(9);
  - (b) second, they must be applied in making any payment of legal expenses which, after giving effect to paragraph 10G(4) (including as applied by paragraph 10J(5)), are payable under this sub-paragraph in pursuance of provision under paragraph 10G(3) or, as the case may be, 10J(4);
  - (c) third, they must be applied in payment or reimbursement of any reasonable costs incurred in storing or insuring the property whilst detained under this Part of this Schedule and in realising the property;
  - (d) fourth, they must be paid—
    - (i) if the property was forfeited by a magistrates' court or the High Court, into the Consolidated Fund;
    - (ii) if the property was forfeited by the sheriff or the Court of Session, into the Scottish Consolidated Fund.
- (2) If what is realised under paragraph 10M represents part only of an item of property seized under paragraph 10B and detained under this Part of this Schedule, the reference in sub-paragraph (1)(c) to costs incurred in storing or insuring the property is to be read as a reference to costs incurred in storing or insuring the whole of the item of property.

## Victims

- 100 (1) A person who claims that any property detained under this Part of this Schedule, or any part of it, belongs to him or her may apply for the property or part to be released.
- (2) An application under sub-paragraph (1) is to be made—
  - (a) in England and Wales or Northern Ireland, to a magistrates' court;
  - (b) in Scotland, to the sheriff.
- (3) The application may be made in the course of proceedings under paragraph 10D or 10G or at any other time.
- (4) The court or sheriff may order the property to which the application relates to be released to the applicant if it appears to the court or sheriff that—
  - (a) the applicant was deprived of the property to which the application relates, or of property which it represents, by criminal conduct,
  - (b) the property the applicant was deprived of was not, immediately before the applicant was deprived of it, property obtained by or in return for criminal conduct and nor did it then represent such property, and
  - (c) the property belongs to the applicant.
- (5) If sub-paragraph (6) applies, the court or sheriff may order the property to which the application relates to be released to the applicant or to the person from whom it was seized.

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- (6) This sub-paragraph applies where—
  - (a) the applicant is not the person from whom the property to which the application relates was seized,
  - (b) it appears to the court or sheriff that the property belongs to the applicant,
  - (c) the court or sheriff is satisfied that the release condition is met in relation to the property, and
  - (d) no objection to the making of an order under sub-paragraph (5) has been made by the person from whom the property was seized.
  
- (7) The release condition is met—
  - (a) in relation to property detained under paragraph 10C or 10D, if the conditions in paragraph 10C or (as the case may be) 10D for the detention of the property are no longer met, and
  - (b) in relation to property detained under paragraph 10G, if the court or sheriff decides not to make an order under that paragraph in relation to the property.

### **Compensation**

- 10P (1) If no order under paragraph 10G, 10I or 10J is made in respect of any property detained under this Part of this Schedule, the person to whom the property belongs or from whom it was seized may make an application for compensation.
- (2) An application under sub-paragraph (1) is to be made—
    - (a) in England and Wales or Northern Ireland, to a magistrates' court;
    - (b) in Scotland, to the sheriff.
  - (3) If the court or sheriff is satisfied that the applicant has suffered loss as a result of the detention of the property and that the circumstances are exceptional, the court or sheriff may order compensation to be paid to the applicant.
  - (4) The amount of compensation to be paid is the amount the court or sheriff thinks reasonable, having regard to the loss suffered and any other relevant circumstances.
  - (5) If the property was seized by an officer of Revenue and Customs, the compensation is to be paid by the Commissioners for Her Majesty's Revenue and Customs.
  - (6) If the property was seized by a constable, the compensation is to be paid as follows—
    - (a) in the case of a constable of a police force in England and Wales, it is to be paid out of the police fund from which the expenses of the police force are met;
    - (b) in the case of a constable of the Police Service of Scotland, it is to be paid by the Scottish Police Authority;



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- (c) in the case of a police officer within the meaning of the Police (Northern Ireland) Act 2000, it is to be paid out of money provided by the Chief Constable of the Police Service of Northern Ireland.
- (7) If the property was seized by a counter-terrorism financial investigator, the compensation is to be paid as follows—
- (a) in the case of a counter-terrorism financial investigator who was—
    - (i) a member of the civilian staff of a police force (including the metropolitan police force), within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011, or
    - (ii) a member of staff of the City of London police force, it is to be paid out of the police fund from which the expenses of the police force are met;
  - (b) in the case of a counter-terrorism financial investigator who was a member of staff of the Police Service of Northern Ireland, it is to be paid out of money provided by the Chief Constable of the Police Service of Northern Ireland.
- (8) If the property was seized by an immigration officer, the compensation is to be paid by the Secretary of State.
- (9) If an order under paragraph 10G, 10I or 10J is made in respect only of a part of any property detained under this Part, this paragraph has effect in relation to the other part.
- (10) This paragraph does not apply if the court or sheriff makes an order under paragraph 10O.”
- 3 In paragraph 19 (general interpretation), in sub-paragraph (1), at the appropriate place insert—
- ““listed asset” has the meaning given by paragraph 10A.”.

## SCHEDULE 4

Section 40

### FORFEITURE OF MONEY HELD IN BANK AND BUILDING SOCIETY ACCOUNTS

- 1 Schedule 1 to the Anti-terrorism, Crime and Security Act 2001 (forfeiture of terrorist cash) is amended as follows.
- 2 After paragraph 10P (inserted by Schedule 3 above) insert—

**“PART 4B**FORFEITURE OF TERRORIST MONEY HELD IN  
BANK AND BUILDING SOCIETY ACCOUNTS**Application for account freezing order**

- 10Q (1) This paragraph applies if an enforcement officer has reasonable grounds for suspecting that money held in an account maintained with a bank or building society—
- (a) is within subsection (1)(a) or (b) of section 1, or
  - (b) is property earmarked as terrorist property.
- (2) Where this paragraph applies the enforcement officer may apply to the relevant court for an account freezing order in relation to the account in which the money is held.
- (3) But—
- (a) an enforcement officer may not apply for an account freezing order unless the officer is a senior officer or is authorised to do so by a senior officer, and
  - (b) the senior officer must consult the Treasury before making the application for the order or (as the case may be) authorising the application to be made, unless in the circumstances it is not reasonably practicable to do so.
- (4) For the purposes of this Part of this Schedule—
- (a) an account freezing order is an order that, subject to any exclusions (see paragraph 10U), prohibits each person by or for whom the account to which the order applies is operated from making withdrawals or payments from the account;
  - (b) an account is operated by or for a person if the person is an account holder or a signatory or identified as a beneficiary in relation to the account.
- (5) An application for an account freezing order may be made without notice if the circumstances of the case are such that notice of the application would prejudice the taking of any steps under this Part of this Schedule to forfeit money that is within subsection (1)(a) or (b) of section 1 or is property earmarked as terrorist property.
- (6) The money referred to in sub-paragraph (1) may be all or part of the credit balance of the account.
- (7) In this Part of this Schedule—
- “bank” has the meaning given by paragraph 10R;
  - “building society” has the same meaning as in the Building Societies Act 1986;
  - “enforcement officer” means—
- (a) a constable, or
  - (b) a counter-terrorism financial investigator;

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“relevant court”—

- (a) in England and Wales and Northern Ireland, means a magistrates’ court, and
  - (b) in Scotland, means the sheriff;
- “senior officer” means a police officer of at least the rank of superintendent.

### Meaning of “bank”

- 10R (1) “Bank” means an authorised deposit-taker, other than a building society, that has its head office or a branch in the United Kingdom.
- (2) In sub-paragraph (1), “authorised deposit-taker” means—
- (a) a person who has permission under Part 4A of the Financial Services and Markets Act 2000 to accept deposits;
  - (b) a person who—
    - (i) is specified, or is within a class of persons specified, by an order under section 38 of that Act (exemption orders), and
    - (ii) accepts deposits;
  - (c) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act that has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits.
- (3) A reference in sub-paragraph (2) to a person or firm with permission to accept deposits does not include a person or firm with permission to do so only for the purposes of, or in the course of, an activity other than accepting deposits.

### Making of account freezing order

- 10S (1) This paragraph applies where an application for an account freezing order is made under paragraph 10Q in relation to an account.
- (2) The relevant court may make the order if satisfied that there are reasonable grounds for suspecting that money held in the account (whether all or part of the credit balance of the account)—
- (a) is within subsection (1)(a) or (b) of section 1, or
  - (b) is property earmarked as terrorist property.
- (3) An account freezing order ceases to have effect at the end of the period specified in the order (which may be varied under paragraph 10T) unless it ceases to have effect at an earlier or later time in accordance with the provision made by paragraphs 10W(6)(c), 10Y(2) to (7), 10Z2(6) to (8) and 10Z3.
- (4) The period specified by the relevant court for the purposes of sub-paragraph (3) (whether when the order is first made or on a variation under paragraph 10T) may not exceed the period of 2 years, starting with the day on which the account freezing order is (or was) made.

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- (5) An account freezing order must provide for notice to be given to persons affected by the order.

#### **Variation and setting aside of account freezing order**

- 10T (1) The relevant court may at any time vary or set aside an account freezing order on an application made by—
- (a) an enforcement officer, or
  - (b) any person affected by the order.
- (2) But an enforcement officer may not make an application under subparagraph (1) unless the officer is a senior officer or is authorised to do so by a senior officer.
- (3) Before varying or setting aside an account freezing order the court must (as well as giving the parties to the proceedings an opportunity to be heard) give such an opportunity to any person who may be affected by its decision.
- (4) In relation to Scotland, the references in this paragraph to setting aside an order are to be read as references to recalling it.

#### **Exclusions**

- 10U (1) The power to vary an account freezing order includes (amongst other things) power to make exclusions from the prohibition on making withdrawals or payments from the account to which the order applies.
- (2) Exclusions from the prohibition may also be made when the order is made.
- (3) An exclusion may (amongst other things) make provision for the purpose of enabling a person by or for whom the account is operated—
- (a) to meet the person's reasonable living expenses, or
  - (b) to carry on any trade, business, profession or occupation.
- (4) An exclusion may be made subject to conditions.
- (5) Where a magistrates' court exercises the power to make an exclusion for the purpose of enabling a person to meet legal expenses that the person has incurred, or may incur, in respect of proceedings under this Schedule, it must ensure that the exclusion—
- (a) is limited to reasonable legal expenses that the person has reasonably incurred or that the person reasonably incurs,
  - (b) specifies the total amount that may be released for legal expenses in pursuance of the exclusion, and
  - (c) is made subject to the same conditions as would be the required conditions (see section 286A of the Proceeds of Crime Act 2002) if the order had been made under section 245A of that Act (in addition to any conditions imposed under subparagraph (4)).

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- (6) A magistrates' court, in deciding whether to make an exclusion for the purpose of enabling a person to meet legal expenses in respect of proceedings under this Schedule—
  - (a) must have regard to the desirability of the person being represented in any proceedings under this Schedule in which the person is a participant, and
  - (b) must disregard the possibility that legal representation of the person in any such proceedings might, were an exclusion not made—
    - (i) be made available under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, or
    - (ii) be funded by the Northern Ireland Legal Services Commission.
- (7) The sheriff's power to make exclusions may not be exercised for the purpose of enabling any person to meet any legal expenses in respect of proceedings under this Schedule.
- (8) The power to make exclusions must, subject to sub-paragraph (6), be exercised with a view to ensuring, so far as practicable, that there is not undue prejudice to the taking of any steps under this Part of this Schedule to forfeit money that is within subsection (1)(a) or (b) of section 1 or is property earmarked as terrorist property.

### **Restriction on proceedings and remedies**

- 10V
- (1) If a court in which proceedings are pending in respect of an account maintained with a bank or building society is satisfied that an account freezing order has been applied for or made in respect of the account, it may either stay the proceedings or allow them to continue on any terms it thinks fit.
  - (2) Before exercising the power conferred by sub-paragraph (1), the court must (as well as giving the parties to any of the proceedings concerned an opportunity to be heard) give such an opportunity to any person who may be affected by the court's decision.
  - (3) In relation to Scotland, the reference in sub-paragraph (1) to staying the proceedings is to be read as a reference to sisting the proceedings.

### **Account forfeiture notice**

- 10W
- (1) This paragraph applies while an account freezing order has effect.
  - (2) A senior officer may give a notice for the purpose of forfeiting money held in the frozen account (whether all or part of the credit balance of the account) if satisfied that the money—
    - (a) is within subsection (1)(a) or (b) of section 1, or
    - (b) is property earmarked as terrorist property.
  - (3) A notice given under sub-paragraph (2) is referred to in this Part of this Schedule as an account forfeiture notice.

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- (4) An account forfeiture notice must—
  - (a) state the amount of money held in the frozen account which it is proposed be forfeited,
  - (b) confirm that the senior officer is satisfied as mentioned in subparagraph (2),
  - (c) specify a period for objecting to the proposed forfeiture and an address to which any objections must be sent, and
  - (d) explain that the money will be forfeited unless an objection is received at that address within the period for objecting.
- (5) The period for objecting must be at least 30 days starting with the day after the notice is given.
- (6) If no objection is made within the period for objecting, and the notice has not lapsed under paragraph 10Y—
  - (a) the amount of money stated in the notice is forfeited (subject to paragraph 10Z),
  - (b) the bank or building society with which the frozen account is maintained must transfer that amount of money into an interest-bearing account nominated by an enforcement officer, and
  - (c) immediately after the transfer has been made, the account freezing order made in relation to the frozen account ceases to have effect.
- (7) An objection may be made by anyone (whether a recipient of the notice or not).
- (8) An objection means a written objection sent to the address specified in the notice; and an objection is made when it is received at the address.
- (9) An objection does not prevent forfeiture of the money held in the frozen account under paragraph 10Z2.

#### **Giving of account forfeiture notice**

- 10X
- (1) The Secretary of State must by regulations made by statutory instrument make provision about how an account forfeiture notice is to be given.
  - (2) The regulations may (amongst other things) provide—
    - (a) for an account forfeiture notice to be given to such person or persons, and in such manner, as may be prescribed;
    - (b) for circumstances in which, and the time at which, an account forfeiture notice is to be treated as having been given.
  - (3) The regulations must ensure that where an account forfeiture notice is given it is, if possible, given to every person to whom notice of the account freezing order was given.
  - (4) A statutory instrument containing regulations under this paragraph is subject to annulment in pursuance of a resolution of either House of Parliament.

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### **Lapse of account forfeiture notice**

- 10Y (1) An account forfeiture notice lapses if—
- (a) an objection is made within the period for objecting specified in the notice under paragraph 10W(4)(c),
  - (b) an application is made under paragraph 10Z2 for the forfeiture of money held in the frozen account, or
  - (c) an order is made under paragraph 10T setting aside (or recalling) the relevant account freezing order.
- (2) If an account forfeiture notice lapses under sub-paragraph (1)(a), the relevant account freezing order ceases to have effect at the end of the period of 48 hours starting with the making of the objection (“the 48-hour period”).
- (3) If within the 48-hour period an application is made—
- (a) for a variation of the relevant account freezing order under paragraph 10T so as to extend the period specified in the order, or
  - (b) for forfeiture of money held in the frozen account under paragraph 10Z2,
- the order continues to have effect until the relevant time (and then ceases to have effect).
- (4) In the case of an application of the kind mentioned in sub-paragraph (3)(a), the relevant time means—
- (a) if an extension is granted, the time determined in accordance with paragraph 10S(3), or
  - (b) if an extension is not granted, the time when the application is determined or otherwise disposed of.
- (5) In the case of an application of the kind mentioned in sub-paragraph (3)(b), the relevant time is the time determined in accordance with paragraph 10Z2(6).
- (6) If within the 48-hour period it is decided that no application of the kind mentioned in sub-paragraph (3)(a) or (b) is to be made, an enforcement officer must, as soon as possible, notify the bank or building society with which the frozen account is maintained of that decision.
- (7) If the bank or building society is notified in accordance with sub-paragraph (6) before the expiry of the 48-hour period, the relevant account freezing order ceases to have effect on the bank or building society being so notified.
- (8) In relation to an account forfeiture notice—
- (a) “the frozen account” is the account in which the money to which the account forfeiture notice relates is held;
  - (b) “the relevant account freezing order” is the account freezing order made in relation to the frozen account.
- (9) In calculating a period of 48 hours for the purposes of this paragraph no account is to be taken of—

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- (a) any Saturday or Sunday,
- (b) Christmas Day,
- (c) Good Friday, or
- (d) any day that is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom in which the account freezing order was made.

### **Application to set aside forfeiture**

- 10Z (1) A person aggrieved by the forfeiture of money in pursuance of paragraph 10W(6)(a) may apply to the relevant court for an order setting aside the forfeiture of the money or any part of it.
- (2) The application must be made before the end of the period of 30 days starting with the day on which the period for objecting ended (“the 30-day period”).
- (3) But the relevant court may give permission for an application to be made after the 30-day period has ended if it thinks that there are exceptional circumstances to explain why the applicant—
- (a) failed to object to the forfeiture within the period for objecting, and
  - (b) failed to make an application within the 30-day period.
- (4) On an application under this paragraph the relevant court must consider whether the money to which the application relates could be forfeited under paragraph 10Z2 (ignoring the forfeiture mentioned in sub-paragraph (1)).
- (5) If the relevant court is satisfied that the money to which the application relates or any part of it could not be forfeited under that paragraph it must set aside the forfeiture of that money or part.
- (6) Where the relevant court sets aside the forfeiture of any money—
- (a) it must order the release of that money, and
  - (b) the money is to be treated as never having been forfeited.
- (7) Where money is released by virtue of sub-paragraph (6)(a), there must be added to the money on its release any interest accrued on it whilst in the account referred to in paragraph 10W(6)(b).

### **Application of money forfeited under account forfeiture notice**

- 10Z1 (1) Money forfeited in pursuance of paragraph 10W(6)(a), and any interest accrued on it whilst in the account referred to in paragraph 10W(6)(b)—
- (a) if, before being forfeited, the money was held in an account in relation to which an account freezing order made by a magistrates’ court had effect, is to be paid into the Consolidated Fund;
  - (b) if, before being forfeited, the money was held in an account in relation to which an account freezing order made by the sheriff had effect, is to be paid into the Scottish Consolidated Fund.



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- (2) But it is not to be paid in—
  - (a) before the end of the period within which an application under paragraph 10Z may be made (ignoring the possibility of an application by virtue of paragraph 10Z(3)), or
  - (b) if an application is made within that period, before the application is determined or otherwise disposed of.

### **Forfeiture order**

- 10Z2 (1) This paragraph applies while an account freezing order has effect.
- (2) An application for the forfeiture of money held in the frozen account (whether all or part of the credit balance of the account) may be made—
    - (a) to a magistrates’ court, by an enforcement officer, or
    - (b) to the sheriff, by the Scottish Ministers.
  - (3) The court or sheriff may order the forfeiture of the money or any part of it if satisfied that the money or part—
    - (a) is within subsection (1)(a) or (b) of section 1, or
    - (b) is property earmarked as terrorist property.
  - (4) But in the case of property earmarked as terrorist property which belongs to joint tenants, one of whom is an excepted joint owner, an order by a magistrates’ court may not apply to so much of it as the court thinks is attributable to the excepted joint owner’s share.
  - (5) For the purposes of sub-paragraph (4)—
    - (a) an excepted joint owner is a joint tenant who obtained the property in circumstances in which it would not (as against him or her) be earmarked, and
    - (b) references to the excepted joint owner’s share of property are to so much of the property as would have been his or hers if the joint tenancy had been severed.
  - (6) Where an application is made under sub-paragraph (2), the account freezing order is to continue to have effect until the time referred to in sub-paragraph (7)(b) or (8).
  - (7) Where money held in a frozen account is ordered to be forfeited under sub-paragraph (3)—
    - (a) the bank or building society with which the frozen account is maintained must transfer that amount of money into an interest-bearing account nominated by an enforcement officer, and
    - (b) immediately after the transfer has been made the account freezing order made in relation to the frozen account ceases to have effect.
  - (8) Where, other than by the making of an order under sub-paragraph (3), an application under sub-paragraph (2) is determined or otherwise disposed of, the account freezing order ceases to have effect immediately after that determination or other disposal.

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### **Continuation of account freezing order pending appeal**

- 10Z3 (1) This paragraph applies where, on an application under sub-paragraph (2) of paragraph 10Z2 in relation to an account to which an account freezing order applies, the court or sheriff decides—
- (a) to make an order under sub-paragraph (3) of that paragraph in relation to part only of the money to which the application related, or
  - (b) not to make an order under sub-paragraph (3) of that paragraph.
- (2) The person who made the application under paragraph 10Z2(2) may apply without notice to the court or sheriff that made the decision referred to in sub-paragraph (1)(a) or (b) for an order that the account freezing order is to continue to have effect.
- (3) Where the court or sheriff makes an order under sub-paragraph (2) the account freezing order is to continue to have effect until—
- (a) the end of the period of 48 hours starting with the making of the order under sub-paragraph (2), or
  - (b) if within that period of 48 hours an appeal is brought under paragraph 10Z4 against the decision referred to in sub-paragraph (1)(a) or (b), the time when the appeal is determined or otherwise disposed of.
- (4) Sub-paragraph (9) of paragraph 10Y applies for the purposes of sub-paragraph (3) as it applies for the purposes of that paragraph.

### **Appeal against decision under paragraph 10Z2**

- 10Z4 (1) Any party to proceedings for an order for the forfeiture of money under paragraph 10Z2 who is aggrieved by an order under that paragraph or by the decision of the court not to make such an order may appeal—
- (a) from an order or decision of a magistrates' court in England and Wales, to the Crown Court;
  - (b) from an order or decision of the sheriff, to the Sheriff Appeal Court;
  - (c) from an order or decision of a magistrates' court in Northern Ireland, to a county court.
- (2) An appeal under sub-paragraph (1) must be made before the end of the period of 30 days starting with the day on which the court makes the order or decision.
- (3) Sub-paragraph (2) is subject to paragraph 10Z5.
- (4) The court hearing the appeal may make any order it thinks appropriate.
- (5) If the court upholds an appeal against an order forfeiting the money, it may order the release of the whole or any part of the money.
- (6) Where money is released by virtue of sub-paragraph (5), there must be added to the money on its release any interest accrued on it whilst in the account referred to in paragraph 10Z2(7)(a).

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### **Extended time for appealing in certain cases where deproscription order made**

- 10Z5 (1) This paragraph applies where—
- (a) a successful application for an order under paragraph 10Z2 relies (wholly or partly) on the fact that an organisation is proscribed,
  - (b) an application under section 4 of the Terrorism Act 2000 for a deproscription order in respect of the organisation is refused by the Secretary of State,
  - (c) the money forfeited by the order under paragraph 10Z2 was made subject to an account freezing order on or after the date of the refusal of that application,
  - (d) an appeal against that refusal is allowed under section 5 of the Terrorism Act 2000,
  - (e) a deproscription order is made accordingly, and
  - (f) if the order is made in reliance on section 123(5) of the Terrorism Act 2000, a resolution is passed by each House of Parliament under section 123(5)(b) of that Act.
- (2) Where this paragraph applies, an appeal under paragraph 10Z4 against the making of an order under paragraph 10Z2 may be brought at any time before the end of the period of 30 days beginning with the date on which the deproscription order comes into force.
- (3) In this paragraph a “deproscription order” means an order under section 3(3)(b) or (8) of the Terrorism Act 2000.

### **Application of money forfeited under account forfeiture order**

- 10Z6 (1) Money forfeited by an order under paragraph 10Z2, and any interest accrued on it whilst in the account referred to in sub-paragraph (7)(a) of that paragraph—
- (a) if forfeited by a magistrates’ court, is to be paid into the Consolidated Fund, and
  - (b) if forfeited by the sheriff, is to be paid into the Scottish Consolidated Fund.
- (2) But it is not to be paid in—
- (a) before the end of the period within which an appeal under paragraph 10Z4 may be made, or
  - (b) if a person appeals under that paragraph, before the appeal is determined or otherwise disposed of.

### **Compensation**

- 10Z7 (1) This paragraph applies if—
- (a) an account freezing order is made, and
  - (b) none of the money held in the account to which the order applies is forfeited in pursuance of an account forfeiture notice or by an order under paragraph 10Z2.

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- (2) Where this paragraph applies a person by or for whom the account to which the account freezing order applies is operated may make an application to the relevant court for compensation.
  - (3) If the relevant court is satisfied that the applicant has suffered loss as a result of the making of the account freezing order and that the circumstances are exceptional, the relevant court may order compensation to be paid to the applicant.
  - (4) The amount of compensation to be paid is the amount the relevant court thinks reasonable, having regard to the loss suffered and any other relevant circumstances.
  - (5) If the account freezing order was applied for by a constable, the compensation is to be paid as follows—
    - (a) in the case of a constable of a police force in England and Wales, it is to be paid out of the police fund from which the expenses of the police force are met;
    - (b) in the case of a constable of the Police Service of Scotland, it is to be paid by the Scottish Police Authority;
    - (c) in the case of a police officer within the meaning of the Police (Northern Ireland) Act 2000, it is to be paid out of money provided by the Chief Constable of the Police Service of Northern Ireland.
  - (6) If the account freezing order was applied for by a counter-terrorism financial investigator, the compensation is to be paid as follows—
    - (a) in the case of an investigator who was—
      - (i) a member of the civilian staff of a police force (including the metropolitan police force), within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011, or
      - (ii) a member of staff of the City of London police force, it is to be paid out of the police fund from which the expenses of the police force are met;
    - (b) in the case of an investigator who was a member of staff of the Police Service of Northern Ireland, it is to be paid out of money provided by the Chief Constable of the Police Service of Northern Ireland.”
- 3 (1) Paragraph 19 (general interpretation) is amended as follows.
- (2) In sub-paragraph (1), at the appropriate places insert—
- ““account forfeiture notice” (in Part 4B) has the meaning given by paragraph 10W(3),”;
  - ““account freezing order” (in Part 4B) has the meaning given by paragraph 10Q(4)(a),”;
  - ““bank” (in Part 4B) has the meaning given by paragraph 10R,”;
  - ““building society” (in Part 4B) has the meaning given by paragraph 10Q(7),”;
  - ““enforcement officer” (in Part 4B) has the meaning given by paragraph 10Q(7),”;

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““relevant court” (in Part 4B) has the meaning given by paragraph 10Q(7);”;

““senior officer” (in Part 4B) has the meaning given by paragraph 10Q(7).”.

(3) After sub-paragraph (6) insert—

“(7) References (in Part 4B) to an account being operated by or for a person are to be read in accordance with paragraph 10Q(4)(b).”

## SCHEDULE 5

Section 53

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### *Prescription and Limitation (Scotland) Act 1973 (c. 52)*

1 In section 19B of the Prescription and Limitation (Scotland) Act 1973 (actions for recovery of property obtained through unlawful conduct etc), after subsection (4) insert—

“(4A) Subsection (4) is subject to section 13(5) of the Criminal Finances Act 2017 (which provides that, in the case of property obtained through unlawful conduct relating to a gross human rights abuse or violation, proceedings cannot be brought after the end of the period of 20 years from the date on which the conduct constituting the commission of the abuse or violation occurs).”

#### *Limitation Act 1980 (c. 58)*

2 (1) Section 27A of the Limitation Act 1980 (actions for recovery of property obtained through unlawful conduct etc) is amended as follows.

(2) After subsection (4) insert—

“(4A) Subsection (4) is subject to section 13(5) of the Criminal Finances Act 2017 (which provides that, in the case of property obtained through unlawful conduct relating to a gross human rights abuse or violation, proceedings cannot be brought after the end of the period of 20 years from the date on which the conduct constituting the commission of the abuse or violation occurs).”

(3) In subsection (8), after paragraph (d) insert—

“(e) Her Majesty’s Revenue and Customs, or  
(f) the Financial Conduct Authority.”

#### *Civil Jurisdiction and Judgments Act 1982 (c. 27)*

3 (1) Section 18 of the Civil Jurisdiction and Judgments Act 1982 (enforcement of UK judgments in other parts of UK) is amended as follows.

(2) In subsection (2)(f), at the end insert “or an unexplained wealth order made under that Part (see sections 362A and 396A of that Act)”.

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- (3) In subsection (2)(g)—
- (a) after “investigation” insert “, a detained property investigation or a frozen funds investigation”;
  - (b) for “meaning” substitute “meanings”.
- (4) In subsection (3) for “and (4ZA)” substitute “, (4ZA) and (4ZB)”.
- (5) After subsection (4ZA) insert—
- “(4ZB) This section applies to the following orders made by a magistrates’ court in England and Wales or Northern Ireland—
- (a) an account freezing order made under section 303Z3 of the Proceeds of Crime Act 2002;
  - (b) an order for the forfeiture of money made under section 303Z14 of that Act;
  - (c) an account freezing order made under paragraph 10S of Schedule 1 to the Anti-terrorism, Crime and Security Act 2001;
  - (d) an order for the forfeiture of money made under paragraph 10Z2 of that Schedule.”
- (6) In subsection (5)(d), for the words after “measure” substitute “other than an order of any of the following kinds—
- (i) a freezing order of the kind mentioned in paragraph (a) or (c) of subsection (4ZB) made (in Scotland) by the sheriff (in addition to such orders made by a magistrates’ court in England and Wales or Northern Ireland);
  - (ii) an order for the making of an interim payment;
  - (iii) an interim order made in connection with the civil recovery of proceeds of unlawful conduct;
  - (iv) an interim freezing order under section 362J of the Proceeds of Crime Act 2002;
  - (v) an interim freezing order under section 396J of that Act.”

*Criminal Justice Act 1987 (c. 38)*

- 4 In section 1 of the Criminal Justice Act 1987 (establishment of the Serious Fraud Office), in subsection (6A)—
- (a) for “Part 5” substitute “Part 2, 4, 5, 7”;
  - (b) for the words in brackets substitute “confiscation proceedings in England and Wales and Northern Ireland, civil recovery proceedings, money laundering and investigations”.

*Limitation (Northern Ireland) Order 1989 (S.I. 1989/1339 (N.I. 11))*

- 5 In Article 72A of the Limitation (Northern Ireland) Order 1989 (actions for recovery of property obtained through unlawful conduct etc), after paragraph (4) insert—
- “(4A) Paragraph (4) is subject to section 13(5) of the Criminal Finances Act 2017 (which provides that, in the case of property obtained through unlawful conduct relating to a gross human rights abuse or violation, proceedings cannot be brought after the end of the period of 20 years from the date on

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which the conduct constituting the commission of the abuse or violation occurs).”

*Data Protection Act 1998 (c. 29)*

- 6 The Data Protection Act 1998 is amended as follows.
- 7 In Schedule 2 (conditions relevant for purposes of the first principle: processing of any personal data), after paragraph 6 insert—
- “7 The processing is necessary for the purposes of making a disclosure in good faith under a power conferred by—
- (a) section 21CA of the Terrorism Act 2000 (disclosures between certain entities within regulated sector in relation to suspicion of commission of terrorist financing offence or for purposes of identifying terrorist property), or
  - (b) section 339ZB of the Proceeds of Crime Act 2002 (disclosures between certain entities within regulated sector in relation to money laundering suspicion).”
- 8 In Schedule 3 (conditions relevant for purposes of the first principle: processing of sensitive personal data), after paragraph 7A insert—
- “7B The processing is necessary for the purposes of making a disclosure in good faith under a power conferred by—
- (a) section 21CA of the Terrorism Act 2000 (disclosures between certain entities within regulated sector in relation to suspicion of commission of terrorist financing offence or for purposes of identifying terrorist property), or
  - (b) section 339ZB of the Proceeds of Crime Act 2002 (disclosures within regulated sector in relation to money laundering suspicion).”

*Terrorism Act 2000 (c. 11)*

- 9 The Terrorism Act 2000 is amended as follows.
- 10 In section 21G (tipping off: other permitted disclosures)—
- (a) omit “or” at the end of paragraph (a);
  - (b) after that paragraph insert—
    - “(aa) made in good faith by virtue of section 21CA (disclosures within the regulated sector); or”.
- 11 In section 115 (officers’ powers)—
- (a) for “sections 25 to 31” substitute “Schedule 1 to the Anti-terrorism, Crime and Security Act 2001 (forfeiture of terrorist property)”;
  - (b) after “Schedule 7” insert “to this Act (port and border controls)”.
- 12 In section 121 (interpretation), insert at the appropriate place—  
““counter-terrorism financial investigator” is to be read in accordance with section 63F;”.
- 13 In Schedule 14 (exercise of officers’ powers)—
- (a) for “terrorist cash”, in each place, substitute “terrorist property”;

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- (b) in paragraph 1(a), after “provisions” insert “(including when referred to in those provisions as an “enforcement officer” or a “senior officer”)”.

*Anti-terrorism, Crime and Security Act 2001 (c. 24)*

- 14 The Anti-terrorism, Crime and Security Act 2001 is amended as follows.
- 15 (1) Section 1 (forfeiture of terrorist cash) is amended as follows.
- (2) In the heading, for “cash” substitute “property”.
- (3) In subsection (1), in the words before paragraph (a), for “cash” substitute “property”.
- (4) In subsection (2)—
- (a) for “any cash” substitute “property”;
- (b) for “the cash” substitute “the property”.
- 16 (1) Schedule 1 (forfeiture of terrorist cash) is amended as follows.
- (2) In the heading of the Schedule, for “cash” substitute “property”.
- (3) In the heading of Part 1, after “Introductory” insert “: forfeiture of terrorist cash”.
- (4) In paragraph 1(1), after “Schedule” insert “(other than Parts 4A and 4B)”.
- (5) In the heading of Part 2, after “Detention” insert “of terrorist cash”.
- (6) In paragraph 3(3A), in the words before paragraph (a), after “application to” insert “a magistrates’ court”.
- (7) In paragraph 5, in sub-paragraph (1), for “this Schedule” substitute “any provision of this Schedule other than Part 2A”.
- (8) In that paragraph, omit sub-paragraph (4).
- (9) In the heading of Part 3, after “Forfeiture” insert “of terrorist cash”.
- (10) In paragraph 8(1), for “this Schedule” substitute “paragraph 6”.
- (11) In the heading of Part 4, after “Miscellaneous” insert “: terrorist cash”.
- (12) After paragraph 9 insert—

*“Restrictions on release*

- 9A Cash is not to be released under any power or duty conferred or imposed by this Schedule (and so is to continue to be detained)—
- (a) if an application for its forfeiture under paragraph 6, or for its release under paragraph 9, is made, until any proceedings in pursuance of the application (including any proceedings on appeal) are concluded;
- (b) if (in the United Kingdom or elsewhere) proceedings are started against any person for an offence with which the cash is connected, until the proceedings are concluded.”
- (13) In paragraph 10, in sub-paragraph (1) after “Schedule,” insert “and the cash is not otherwise forfeited in pursuance of a cash forfeiture notice,”.



(14) In that paragraph, after sub-paragraph (8) insert—

“(8A) If any cash is detained under this Schedule and part only of the cash is forfeited in pursuance of a cash forfeiture notice, this paragraph has effect in relation to the other part.”

(15) After paragraph 10Z8 (inserted by section 42) insert—

#### **“PART 4D**

##### PROCEEDINGS UNDER THIS SCHEDULE

#### **Powers for prosecutors to appear in proceedings**

- 10Z9 (1) The Director of Public Prosecutions or the Director of Public Prosecutions for Northern Ireland may appear for a person mentioned in sub-paragraph (2) in proceedings under this Schedule if the Director—
- (a) is asked by, or on behalf of, the person to do so, and
  - (b) considers it appropriate to do so.
- (2) The persons referred to in sub-paragraph (1) are—
- (a) a constable;
  - (b) a counter-terrorism financial investigator;
  - (c) the Commissioners for Her Majesty’s Revenue and Customs;
  - (d) an officer of Revenue and Customs;
  - (e) an immigration officer.
- (3) The Director of Public Prosecutions may authorise a person (generally or specifically) to carry out the functions of the Director under sub-paragraph (1) if the person is—
- (a) a member of the Director’s staff;
  - (b) a person providing services under arrangements made by the Director.
- (4) The Director of Public Prosecutions and the Director of Public Prosecutions for Northern Ireland may charge fees for the provision of services under this paragraph.”

#### *Proceeds of Crime Act 2002 (c. 29)*

17 The Proceeds of Crime Act 2002 is amended as follows.

18 (1) Section 2A (contribution to the reduction of crime) is amended as follows.

(2) In subsection (2)—

- (a) omit “or” before paragraph (e);
- (b) after paragraph (e) insert—
  - “(f) Her Majesty’s Revenue and Customs, or
  - (g) the Financial Conduct Authority.”

(3) In subsection (3)—

- (a) omit “and” at the end of paragraph (b);

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- (b) after paragraph (c) insert “, and
  - (d) in the case of Her Majesty’s Revenue and Customs or the Financial Conduct Authority, the Treasury.”
- 19 (1) Section 2C (prosecuting authorities) is amended as follows.
  - (2) In subsection (2), after “5,” insert “7”.
  - (3) In subsection (3A), after “302A” insert “, 303X or 303Z19”.
- 20 In section 7 (recoverable amount for purposes of confiscation order in England and Wales), in subsection (4)—
  - (a) in paragraph (b), after “section 297A” insert “or an account forfeiture notice under section 303Z9”;
  - (b) omit “and” at the end of paragraph (b);
  - (c) in paragraph (c), after “298(2)” insert “, 303O(3), 303R(3) or 303Z14(4)”;
  - (d) after paragraph (c) insert “, and
    - (d) any property which is the forfeitable property in relation to an order under section 303Q(1).”
- 21 In section 47G (appropriate approval for exercise of search and seizure powers in England and Wales), in subsection (3)(c), after “investigator”, in the first place it occurs, insert “who does not fall within any of the preceding paragraphs”.
- 22 (1) Section 82 (meaning of free property for purposes of Part 2) is amended as follows.
  - (2) In subsection (2)(f), for “or 298(2)” substitute “, 298(2), 303L(1), 303O(3), 303R(3), 303Z3 or 303Z14(4)”.
  - (3) In subsection (3)—
    - (a) in paragraph (a), after “section 297A” insert “or an account forfeiture notice under section 303Z9”;
    - (b) in paragraph (b) (as amended by section 34(2) of this Act), for “or 298(4)” substitute “, 298(4) or 303O(9)”;
    - (c) after paragraph (b) insert—
      - “(c) it is the forfeitable property in relation to an order under section 303Q(1).”
- 23 In section 93 (recoverable amount for purposes of confiscation order in Scotland), in subsection (4)—
  - (a) in paragraph (b), after “section 297A” insert “or an account forfeiture notice under section 303Z9”;
  - (b) omit “and” at the end of paragraph (b);
  - (c) in paragraph (c), after “298(2)” insert “, 303O(3), 303R(3) or 303Z14(4)”;
  - (d) after paragraph (c) insert “, and
    - (d) any property which is the forfeitable property in relation to an order under section 303Q(1).”
- 24 (1) Section 148 (meaning of free property for purposes of Part 3) is amended as follows.
  - (2) In subsection (2)(f), for “or 298(2)” substitute “, 298(2), 303L(1), 303O(3), 303R(3), 303Z3 or 303Z14(4)”.
  - (3) In subsection (3)—

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- (a) in paragraph (a), after “section 297A” insert “or an account forfeiture notice under section 303Z9”;
  - (b) in paragraph (b) (as amended by section 34(3) of this Act), for “or 298(4)” substitute “, 298(4) or 303O(9)”;
  - (c) after paragraph (b) insert—
    - “(c) it is the forfeitable property in relation to an order under section 303Q(1).”
- 25 In section 157 (recoverable amount for purposes of confiscation order in Northern Ireland), in subsection (4)—
- (a) in paragraph (b), after “section 297A” insert “or an account forfeiture notice under section 303Z9”;
  - (b) omit “and” at the end of paragraph (b);
  - (c) in paragraph (c), after “298(2)” insert “, 303O(3), 303R(3) or 303Z14(4)”;
  - (d) after paragraph (c) insert “, and
    - (d) any property which is the forfeitable property in relation to an order under section 303Q(1).”
- 26 In section 195G (appropriate approval for exercise of search and seizure powers in Northern Ireland), in subsection (3)(c), after “investigator”, in the first place it occurs, insert “who does not fall within any of the preceding paragraphs”.
- 27 (1) Section 230 (meaning of free property for purposes of Part 4) is amended as follows.
- (2) In subsection (2)(f), for “or 298(2)” substitute “, 298(2), 303L(1), 303O(3), 303R(3), 303Z3 or 303Z14(4)”.
- (3) In subsection (3)—
- (a) in paragraph (a), after “section 297A” insert “or an account forfeiture notice under section 303Z9”;
  - (b) in paragraph (b) (as amended by section 34(4) of this Act), for “or 298(4)” substitute “, 298(4) or 303O(9)”;
  - (c) after paragraph (b) insert—
    - “(c) it is the forfeitable property in relation to an order under section 303Q(1).”
- 28 In section 240 (general purpose of Part 5), in subsection (1)(b)—
- (a) for “cash” substitute “property”;
  - (b) at the end insert “and, in certain circumstances, to be forfeited by the giving of a notice”.
- 29 In section 241 (“unlawful conduct”), in subsection (3)(b), for “cash” substitute “property”.
- 30 (1) Section 278 (limit on recovery) is amended as follows.
- (2) In subsection (6A)—
- (a) in paragraph (a), after “section 297A” insert “or an account forfeiture notice under section 303Z9”;
  - (b) in the words after paragraph (b), for “forfeiture notice” substitute “notice”.
- (3) In subsection (7)—
- (a) in paragraph (a), after “section 298” insert “, 303O or 303Z14”;
  - (b) in the words after paragraph (b), for “section 298” substitute “that section”.

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- (4) After subsection (7) insert—
- “(7A) If—
- (a) an order is made under section 303Q instead of an order being made under section 303O for the forfeiture of recoverable property, and
- (b) the enforcement authority subsequently seeks a recovery order in respect of related property,
- the order under section 303Q is to be treated for the purposes of this section as if it were a recovery order obtained by the enforcement authority in respect of the property that was the forfeitable property in relation to the order under section 303Q.”
- 31 In section 289 (searches), in subsection (5)(b) for “a customs officer” substitute “an officer of Revenue and Customs”.
- 32 (1) Section 290 (prior approval) is amended as follows.
- (2) In subsection (4)(c), after “investigator”, in the first place it occurs, insert “who does not fall within any of the preceding paragraphs”.
- (3) After subsection (6) insert—
- “(6A) But the duty in subsection (6) does not apply if, during the course of exercising the powers conferred by section 289, the relevant officer seizes property by virtue of section 303J and the property so seized is detained for more than 48 hours (calculated in accordance with section 303K(5)).”
- 33 In section 302 (compensation), in subsection (7A), for “or a constable” substitute “, a constable, an SFO officer or a National Crime Agency officer”.
- 34 (1) Section 311 (insolvency) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) An application for an order for the further detention of any property to which subsection (3) applies may not be made under section 303L unless the appropriate court gives leave.
- (2B) An application for the making of an account freezing order under section 303Z3 in respect of an account in which is held money to which subsection (3) applies, or an application under section 303Z4 for the extension of the period specified in such an order, may not be made unless the appropriate court gives leave.”
- (3) In subsection (4), after “recovery order” insert “, or to apply for an account freezing order under section 303Z3,”.
- 35 In section 312 (performance of functions of Scottish Ministers by constables in Scotland: excluded functions), in subsection (2), after paragraph (j) insert—
- “(k) section 303B(3) (listed asset);
- (l) section 303H(1) (code of practice);
- (m) section 303O(1)(b) (forfeiture);
- (n) section 303Y(3) (minimum value);
- (o) section 303Z8(3) (minimum amount);
- (p) section 303Z14(2)(b) (forfeiture).”

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- 36 (1) Section 316 (general interpretation of Part 5) is amended as follows.
- (2) In subsection (1)—
- (a) in the definition of “associated property”, after “property” insert “(in Chapter 2)”;
  - (b) in the definition of “court”, for “Chapter 3” substitute “Chapters 3, 3A and 3B”;
  - (c) at the appropriate places insert—
    - ““account forfeiture notice” (in Chapter 3B) has the meaning given by section 303Z9(3),”;
    - ““account freezing order” (in Chapter 3B) has the meaning given by section 303Z1(3)(a),”;
    - ““bank” (in Chapter 3B) has the meaning given by section 303Z7,”;
    - ““building society” (in Chapter 3B) has the meaning given by section 303Z1(6),”;
    - ““enforcement officer” (in Chapter 3B) has the meaning given by section 303Z1(6),”;
    - ““listed asset” (in Chapter 3A) has the meaning given by section 303B,”;
    - ““the minimum amount” (in Chapter 3B) has the meaning given by section 303Z8,”;
    - ““the minimum value” (in Chapter 3A) has the meaning given by section 303Y,”;
    - ““relevant court” (in Chapter 3B) has the meaning given by section 303Z1(6),”;
    - ““relevant officer” (in Chapter 3A) has the meaning given by section 303C(9),”;
    - ““senior officer” (in Chapter 3B) has the meaning given by section 303Z2(4),”.
- (3) After subsection (9) insert—
- “(10) References (in Chapter 3B) to an account being operated by or for a person are to be read in accordance with section 303Z1(3)(b).”
- 37 (1) Section 333D (tipping off: other permitted disclosures) is amended as follows.
- (2) In subsection (1)—
- (a) omit “or” at the end of paragraph (a);
  - (b) after that paragraph insert—
    - “(aa) for the purposes of proceedings under section 336A (power of court to extend moratorium period);
    - (ab) made in good faith by virtue of section 339ZB (disclosures within the regulated sector); or”.
- (3) After subsection (1) insert—
- “(1A) Where an application is made to extend a moratorium period under section 336A, a person does not commit an offence under section 333A if—
- (a) the disclosure is made to a customer or client of the person,
  - (b) the customer or client appears to the person making the disclosure to have an interest in the relevant property, and

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- (c) the disclosure contains only such information as is necessary for the purposes of notifying the customer or client that the application under section 336A has been made.

“Moratorium period” and “relevant property” have the meanings given in section 336D.”

38 In section 340 (Part 7: interpretation), after subsection (14) insert—

“(15) “Further information order” means an order made under section 339ZH.”

39 (1) Section 341 (investigations for purposes of Part 8) is amended as follows.

(2) In subsection (3)—

- (a) omit “or” at the end of paragraph (c);
- (b) in paragraph (d), after “295” insert “, 303K or 303L”;
- (c) at the end of paragraph (d) insert “, or
- (e) property held in an account in relation to which an account freezing order made under section 303Z3 has effect.”

(3) After subsection (3A) insert—

“(3B) For the purposes of this Part a detained property investigation is an investigation for the purposes of Chapter 3A of Part 5 into—

- (a) the derivation of property detained under that Chapter, or a part of such property, or
- (b) whether property detained under that Chapter, or a part of such property, is intended by any person to be used in unlawful conduct.

(3C) For the purposes of this Part a frozen funds investigation is an investigation for the purposes of Chapter 3B of Part 5 into—

- (a) the derivation of money held in an account in relation to which an account freezing order made under section 303Z3 has effect (a “frozen account”) or of a part of such money, or
- (b) whether money held in a frozen account, or a part of such money, is intended by any person to be used in unlawful conduct.”

40 In section 342 (offences of prejudicing investigation), in subsection (1), after “a detained cash investigation” insert “, a detained property investigation, a frozen funds investigation”.

41 In section 343 (judges), in subsection (2), for “or a detained cash investigation” substitute “, a detained cash investigation, a detained property investigation or a frozen funds investigation”.

42 In section 344 (courts), in paragraph (a), for “or a detained cash investigation” substitute “, a detained cash investigation, a detained property investigation or a frozen funds investigation”.

43 In section 345 (production orders), in subsection (2)(b), for “or a detained cash investigation” substitute “, a detained cash investigation, a detained property investigation or a frozen funds investigation”.

44 In section 346 (requirements for making of production order), in subsection (2), after paragraph (bb) insert—

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- “(bc) in the case of a detained property investigation into the derivation of property, the property the application for the order specifies as being subject to the investigation, or a part of it, is recoverable property;
  - (bd) in the case of a detained property investigation into the intended use of property, the property the application for the order specifies as being subject to the investigation, or a part of it, is intended by any person to be used in unlawful conduct;
  - (be) in the case of a frozen funds investigation into the derivation of money held in an account in relation to which an account freezing order made under section 303Z3 has effect (a “frozen account”), the property the application for the order specifies as being subject to the investigation, or a part of it, is recoverable property;
  - (bf) in the case of a frozen funds investigation into the intended use of money held in a frozen account, the property the application for the order specifies as being subject to the investigation, or a part of it, is intended by any person to be used in unlawful conduct;”.
- 45 In section 350 (government departments), in subsection (5)(a), for “or a detained cash investigation” substitute “, a detained cash investigation, a detained property investigation or a frozen funds investigation”.
- 46 In section 351 (production orders: supplementary), for subsection (5) substitute—
  - “(5) An application to discharge or vary a production order or an order to grant entry need not be made by the same appropriate officer that applied for the order (but must be made by an appropriate officer of the same description).
  - (5A) If the application for the order was, by virtue of an order under section 453, made by an accredited financial investigator of a particular description, the reference in subsection (5) to an appropriate officer of the same description is to another accredited financial investigator of that description.”
- 47 (1) Section 352 (search and seizure warrants) is amended as follows.
  - (2) In subsection (2)(b), for “or a detained cash investigation” substitute “, a detained cash investigation, a detained property investigation or a frozen funds investigation”.
  - (3) In subsection (5)—
    - (a) at the beginning of paragraph (b) insert “a Financial Conduct Authority officer;”;
    - (b) in that paragraph, after “National Crime Agency officer” insert “, an officer of Revenue and Customs”;
    - (c) in paragraph (c), after “constable,” insert “an SFO officer;”;
    - (d) after paragraph (c) insert—
      - “(ca) a constable, an SFO officer, an accredited financial investigator or an officer of Revenue and Customs, if the warrant is sought for the purposes of a detained property investigation;
      - (cb) a constable, an SFO officer, an accredited financial investigator or an officer of Revenue and Customs, if the warrant is sought for the purposes of a frozen funds investigation;”.
  - (4) In subsection (7), for “paragraph (c)” substitute “paragraphs (c), (ca) and (cb)”.

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- 48 (1) Section 353 (requirements where production order not available) is amended as follows.
- (2) In subsection (2), after paragraph (bb) insert—
- “(bc) in the case of a detained property investigation into the derivation of property, the property specified in the application for the warrant, or a part of it, is recoverable property;
  - (bd) in the case of a detained property investigation into the intended use of property, the property specified in the application for the warrant, or a part of it, is intended by any person to be used in unlawful conduct;
  - (be) in the case of a frozen funds investigation into the derivation of money held in an account in relation to which an account freezing order made under section 303Z3 has effect (a “frozen account”), the property specified in the application for the warrant, or a part of it, is recoverable property;
  - (bf) in the case of a frozen funds investigation into the intended use of money held in a frozen account, the property specified in the application for the warrant, or a part of it, is intended by any person to be used in unlawful conduct;”.
- (3) In subsection (5)(a), after “(7B)” insert “, (7C), (7D), (7E), (7F)”.
- (4) After subsection (7B) insert—
- “(7C) In the case of a detained property investigation into the derivation of property, material falls within this subsection if it cannot be identified at the time of the application but it—
- (a) relates to the property specified in the application, the question whether the property, or a part of it, is recoverable property or any other question as to its derivation, and
  - (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.
- (7D) In the case of a detained property investigation into the intended use of property, material falls within this subsection if it cannot be identified at the time of the application but it—
- (a) relates to the property specified in the application or the question whether the property, or a part of it, is intended by any person to be used in unlawful conduct, and
  - (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.
- (7E) In the case of a frozen funds investigation into the derivation of money held in a frozen account, material falls within this subsection if it cannot be identified at the time of the application but it—
- (a) relates to the property specified in the application, the question whether the property, or a part of it, is recoverable property or any other question as to its derivation, and
  - (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.



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- (7F) In the case of a frozen funds investigation into the intended use of money held in a frozen account, material falls within this subsection if it cannot be identified at the time of the application but it—
- (a) relates to the property specified in the application or the question whether the property, or a part of it, is intended by any person to be used in unlawful conduct, and
  - (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.”
- (5) In subsection (10)—
- (a) at the beginning of paragraph (b) insert “a Financial Conduct Authority officer,”;
  - (b) in that paragraph, after “National Crime Agency officer” insert “, an officer of Revenue and Customs”;
  - (c) in paragraph (c), after “constable,” insert “an SFO officer,”;
  - (d) after paragraph (c) insert—
    - “(ca) a constable, an SFO officer, an accredited financial investigator or an officer of Revenue and Customs, if the warrant is sought for the purposes of a detained property investigation;
    - (cb) a constable, an SFO officer, an accredited financial investigator or an officer of Revenue and Customs, if the warrant is sought for the purposes of a frozen funds investigation;”.
- (6) In subsection (11), for “paragraph (c)” substitute “paragraphs (c), (ca) and (cb)”.
- 49 (1) Section 355 (further provisions: confiscation and money laundering) is amended as follows.
- (2) In the heading, for “and money laundering” substitute “, money laundering, detained cash, detained property and frozen funds investigations”.
  - (3) In subsection (1)(a), for “or a detained cash investigation” substitute “, a detained cash investigation, a detained property investigation or a frozen funds investigation”.
- 50 In section 356 (further provisions: civil recovery), in the heading, at the end insert “and exploitation proceeds investigations”.
- 51 (1) Section 357 (disclosure orders) is amended as follows.
- (2) In subsection (2), after “detained cash investigation” insert “, a detained property investigation or a frozen funds investigation”.
  - (3) In subsection (7), in paragraph (b)—
    - (a) after “investigation,” insert “a Financial Conduct Authority officer,”;
    - (b) after “National Crime Agency officer” insert “, an officer of Revenue and Customs”.
- 52 In section 363 (customer information orders), in subsection (1A), at the end insert “, a detained property investigation or a frozen funds investigation”.
- 53 (1) Section 369 (customer information orders: supplementary) is amended as follows.
- (2) For subsection (5) substitute—

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- “(5) An application to discharge or vary a customer information order need not be made by the same appropriate officer that applied for the order (but must be made by an appropriate officer of the same description).
- (5A) If the application for the order was, by virtue of an order under section 453, made by an accredited financial investigator of a particular description, the reference in subsection (5) to an appropriate officer of the same description is to another accredited financial investigator of that description.”
- (3) In subsection (7)—
- (a) after “National Crime Agency officer,” insert “a Financial Conduct Authority officer,”;
- (b) after “constable” insert “, an SFO officer”.
- 54 In section 370 (account monitoring orders), in subsection (1A), at the end insert “, a detained property investigation or a frozen funds investigation”.
- 55 In section 375 (account monitoring orders: supplementary), for subsection (4) substitute—
- “(4) An application to discharge or vary an account monitoring order need not be made by the same appropriate officer that applied for the order (but must be made by an appropriate officer of the same description).
- (4A) If the application for the order was, by virtue of an order under section 453, made by an accredited financial investigator of a particular description, the reference in subsection (4) to an appropriate officer of the same description is to another accredited financial investigator of that description.”
- 56 (1) Section 375A (evidence overseas) is amended as follows.
- (2) In subsection (1), after “detained cash investigation” insert “, a detained property investigation, a frozen funds investigation”.
- (3) In subsection (5), after paragraph (b) insert—
- “(ba) in relation to an application or request made for the purposes of a detained property investigation, evidence as to a matter described in section 341(3B)(a) or (b);
- (bb) in relation to an application or request made for the purposes of a frozen funds investigation, evidence as to a matter described in section 341(3C)(a) or (b);”.
- 57 In section 375B (evidence overseas: restrictions on use), in subsection (3), after paragraph (b) insert—
- “(ba) if the request was made for the purposes of a detained property investigation, proceedings under Chapter 3A of Part 5 of this Act arising out of the investigation;
- (bb) if the request was made for the purposes of a frozen funds investigation, proceedings under Chapter 3B of Part 5 of this Act arising out of the investigation;”.
- 58 (1) Section 377 (code of practice of Secretary of State) is amended as follows.
- (2) In subsection (1) after paragraph (f) insert—
- “(g) Financial Conduct Authority officers.”

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- (3) After subsection (2) insert—
- “(2A) The Secretary of State must also consult the Treasury about the draft in its application to functions that Financial Conduct Authority officers have under this Chapter.”
- (4) In subsection (3) for “subsection (2)” insert “subsections (2) and (2A)”.
- 59 In section 378 (officers), after subsection (3B) insert—
- “(3C) In relation to a detained property investigation these are appropriate officers—
- (a) a constable;
  - (b) an SFO officer;
  - (c) an accredited financial investigator who falls within a description specified in an order made for the purposes of this paragraph by the Secretary of State under section 453;
  - (d) an officer of Revenue and Customs.
- (3D) In relation to a detained property investigation these are senior appropriate officers—
- (a) a police officer who is not below the rank of inspector;
  - (b) the Director of the Serious Fraud Office;
  - (c) an accredited financial investigator who falls within a description specified in an order made for the purposes of this paragraph by the Secretary of State under section 453;
  - (d) an officer of Revenue and Customs who is not below such grade as is designated by the Commissioners for Her Majesty’s Revenue and Customs as equivalent to the police rank of inspector.
- (3E) In relation to a frozen funds investigation these are appropriate officers—
- (a) a constable;
  - (b) an SFO officer;
  - (c) an accredited financial investigator who falls within a description specified in an order made for the purposes of this paragraph by the Secretary of State under section 453;
  - (d) an officer of Revenue and Customs.
- (3F) In relation to a frozen funds investigation these are senior appropriate officers—
- (a) a police officer who is not below the rank of inspector;
  - (b) the Director of the Serious Fraud Office;
  - (c) an accredited financial investigator who falls within a description specified in an order made for the purposes of this paragraph by the Secretary of State under section 453;
  - (d) an officer of Revenue and Customs who is not below such grade as is designated by the Commissioners for Her Majesty’s Revenue and Customs as equivalent to the police rank of inspector.”

60 In section 380 (production orders), in subsections (2) and (3)(b), for “or a detained cash investigation” substitute “, a detained cash investigation, a detained property investigation or a frozen funds investigation”.

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- 61 In section 381 (requirements for making of production order), in subsection (2), after paragraph (bb) insert—
- “(bc) in the case of a detained property investigation into the derivation of property, the property the application for the order specifies as being subject to the investigation, or a part of it, is recoverable property;
  - (bd) in the case of a detained property investigation into the intended use of property, the property the application for the order specifies as being subject to the investigation, or a part of it, is intended by any person to be used in unlawful conduct;
  - (be) in the case of a frozen funds investigation into the derivation of money held in an account in relation to which an account freezing order made under section 303Z3 has effect (a “frozen account”), the property the application for the order specifies as being subject to the investigation, or a part of it, is recoverable property;
  - (bf) in the case of a frozen funds investigation into the intended use of money held in a frozen account, the property the application for the order specifies as being subject to the investigation, or a part of it, is intended by any person to be used in unlawful conduct;”.
- 62 In section 385 (Government departments), in subsection (4)(b), for “or a detained cash investigation” substitute “, a detained cash investigation, a detained property investigation or a frozen funds investigation”.
- 63 In section 386 (production orders: supplementary), in subsection (3)(b), for “or a detained cash investigation” substitute “, a detained cash investigation, a detained property investigation or a frozen funds investigation”.
- 64 In section 387 (search warrants), in subsections (2) and (3)(b), for “or a detained cash investigation” substitute “, a detained cash investigation, a detained property investigation or a frozen funds investigation”.
- 65 (1) Section 388 (requirements where production order not available) is amended as follows.
- (2) In subsection (2), after paragraph (bb) insert—
- “(bc) in the case of a detained property investigation into the derivation of property, the property specified in the application for the warrant, or a part of it, is recoverable property;
  - (bd) in the case of a detained property investigation into the intended use of property, the property specified in the application for the warrant, or a part of it, is intended by any person to be used in unlawful conduct;
  - (be) in the case of a frozen funds investigation into the derivation of money held in an account in relation to which an account freezing order made under section 303Z3 has effect (a “frozen account”), the property specified in the application for the warrant, or a part of it, is recoverable property;
  - (bf) in the case of a frozen funds investigation into the intended use of money held in a frozen account, the property specified in the application for the warrant, or a part of it, is intended by any person to be used in unlawful conduct;”.
- (3) In subsection (5)(a), after “(7B)” insert “, (7C), (7D), (7E), (7F)”.

(4) After subsection (7B) insert—

“(7C) In the case of a detained property investigation into the derivation of property, material falls within this subsection if it cannot be identified at the time of the application but it—

- (a) relates to the property specified in the application, the question whether the property, or a part of it, is recoverable property or any other question as to its derivation, and
- (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.

(7D) In the case of a detained property investigation into the intended use of property, material falls within this subsection if it cannot be identified at the time of the application but it—

- (a) relates to the property specified in the application or the question whether the property, or a part of it, is intended by any person to be used in unlawful conduct, and
- (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.

(7E) In the case of a frozen funds investigation into the derivation of money held in a frozen account, material falls within this subsection if it cannot be identified at the time of the application but it—

- (a) relates to the property specified in the application, the question whether the property, or a part of it, is recoverable property or any other question as to its derivation, and
- (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.

(7F) In the case of a frozen funds investigation into the intended use of money held in a frozen account, material falls within this subsection if it cannot be identified at the time of the application but it—

- (a) relates to the property specified in the application or the question whether the property, or a part of it, is intended by any person to be used in unlawful conduct, and
- (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.”

66 (1) Section 390 (further provisions: confiscation, civil recovery, detained cash and money laundering) is amended as follows.

(2) In the heading, after “detained cash” insert “, detained property, frozen funds”.

(3) In subsection (1), after “detained cash investigations” insert “, detained property investigations, frozen funds investigations”.

(4) In subsections (5), (6) and (7), for “or a detained cash investigation” substitute “, a detained cash investigation, a detained property investigation or a frozen funds investigation”.

67 In section 391 (disclosure orders), in subsection (2), after “detained cash investigation” insert “, a detained property investigation or a frozen funds investigation”.

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- 68 In section 397 (customer information orders), in subsection (1A), at the end insert “, a detained property investigation or a frozen funds investigation”.
- 69 In section 404 (account monitoring orders), in subsection (1A), at the end insert “, a detained property investigation or a frozen funds investigation”.
- 70 (1) Section 408A (evidence overseas) is amended as follows.
- (2) In subsection (1), for “or a detained cash investigation” substitute “, a detained cash investigation, a detained property investigation or a frozen funds investigation”.
- (3) In subsection (5), after paragraph (b) insert—
- “(c) in relation to an application or request made for the purposes of a detained property investigation, evidence as to a matter described in section 341(3B)(a) or (b);
- (d) in relation to an application or request made for the purposes of a frozen funds investigation, evidence as to a matter described in section 341(3C)(a) or (b);”.
- 71 In section 408B (evidence overseas: restrictions on use), in subsection (3), after paragraph (b) insert—
- “(c) if the request was made for the purposes of a detained property investigation, proceedings under Chapter 3A of Part 5 of this Act arising out of the investigation;
- (d) if the request was made for the purposes of a frozen funds investigation, proceedings under Chapter 3B of Part 5 of this Act arising out of the investigation;”.
- 72 In section 412 (interpretation), in paragraph (b) of the definitions of “appropriate person” and “proper person”, for “or a detained cash investigation” substitute “, a detained cash investigation, a detained property investigation or a frozen funds investigation”.
- 73 In the title of Chapter 4 of Part 8, before “Interpretation” insert “Supplementary and”.
- 74 Before section 413 (in Chapter 4 of Part 8), insert—

**“412A Power to vary monetary amounts**

- (1) In order to take account of changes in the value of money, the Secretary of State may by regulations substitute another sum for the sum for the time being specified in—
- (a) section 362B(2)(b) (minimum value of property for purposes of making unexplained wealth order in England and Wales or Northern Ireland), and
- (b) section 396B(2)(b) (minimum value of property for purposes of making unexplained wealth order in Scotland).
- (2) The Secretary of State must consult the Department of Justice in Northern Ireland and the Scottish Ministers before making regulations under subsection (1).”
- 75 In section 414 (property), in subsection (3) before paragraph (a) insert—
- “(za) property is held by a person if he holds an interest in it;”.
- 76 (1) Section 416 (Part 8: other interpretative provisions) is amended as follows.

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- (2) In subsection (1), after the entry for “detained cash investigation” insert—  
“detained property investigation: section 341(3B)  
frozen funds investigation: section 341(3C)”.
- (3) In subsection (2), at the appropriate places in the list insert—  
“enforcement authority: section 362A(7)”;  
“interim freezing order: section 362J(3)”;  
“unexplained wealth order: section 362A(3)”.
- (4) In subsection (3), at the appropriate places in the list insert—  
“interim freezing order: section 396J(3)”;  
“unexplained wealth order: section 396A(3)”.
- (5) After subsection (3A) insert—  
“(3B) In relation to an order in England and Wales or Northern Ireland that is an interim freezing order or an unexplained wealth order, references to the enforcement authority are to the enforcement authority that is seeking, or (as the case may be) has obtained, the order.”
- (6) In subsection (7), after “Recovery order,” insert “property freezing order”.
- (7) After subsection (7) insert—  
“(7ZA) “Settlement” has the meaning given by section 620 of the Income Tax (Trading and Other Income) Act 2005.”
- 77 (1) Section 435 (use of information by certain Directors) is amended as follows.
- (2) In the heading for “Directors” substitute “authorities”.
- (3) In subsection (1)—  
(a) for “the Director” substitute “a relevant authority”;  
(b) for “his”, in each place, substitute “the authority’s”;  
(c) for “him” substitute “the authority”.
- (4) In subsection (2)—  
(a) for “the Director” substitute “a relevant authority”;  
(b) for “his”, in each place, substitute “the authority’s”;  
(c) for “him” substitute “the authority”.
- (5) In subsection (4)—  
(a) in the words before paragraph (a), for ““the Director”” substitute ““relevant authority””;  
(b) omit “or” at the end of paragraph (b);  
(c) after paragraph (c) insert—  
“(d) Her Majesty’s Revenue and Customs; or  
(e) the Financial Conduct Authority.”
- (6) The amendments made by this paragraph apply to information obtained before, as well as to information obtained after, the coming into force of this paragraph.
- 78 (1) Section 436 (disclosure of information to certain Directors) is amended as follows.

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- (2) In the heading for “Directors” substitute “authorities”.
- (3) In subsection (1)—
- (a) for “the Director”, in the first place it occurs, substitute “a relevant authority”;
  - (b) for “the Director”, in the second place it occurs, substitute “the authority”;
  - (c) for “his” substitute “the authority’s”.
- (4) In subsection (5), after paragraph (h) insert—
- “(i) the Financial Conduct Authority.”
- (5) In subsection (10) for ““the Director”” substitute ““relevant authority””.
- (6) The amendments made by this paragraph apply to information obtained before, as well as to information obtained after, the coming into force of this paragraph.
- 79 (1) Section 437 (further disclosure) is amended as follows.
- (2) In subsection (2), in paragraph (a) for “the Director’s” substitute “a relevant authority’s”.
- (3) In subsection (6)—
- (a) for “the Director”, in the first place it occurs, substitute “a relevant authority”;
  - (b) for “the Director”, in the second place it occurs, substitute “the authority”.
- (4) In subsection (7) for ““the Director”” substitute ““relevant authority””.
- 80 (1) Section 438 (disclosure of information by certain Directors) is amended as follows.
- (2) In the heading for “Directors” substitute “authorities”.
- (3) In subsection (1)—
- (a) in the words before paragraph (a)—
    - (i) for “the Director” substitute “a relevant authority”;
    - (ii) for “his” substitute “the authority’s”;
    - (iii) for “him” substitute “the authority”;
  - (b) in paragraph (c) for “Director’s” substitute “authority’s”;
  - (c) in paragraph (e) after “Part 5” insert “or 8”;
  - (d) in paragraph (f)—
    - (i) for “or a constable” substitute “, a constable or an SFO officer”;
    - (ii) after “Chapter 3” insert “, 3A or 3B”;
  - (e) in paragraph (fa) for “Director” substitute “relevant authority”.
- (4) In subsection (5)—
- (a) for “the Director” substitute “a relevant authority”;
  - (b) for “he”, in each place, substitute “the authority”.
- (5) In subsection (10) for ““the Director”” substitute ““relevant authority””.
- (6) The amendments made by this paragraph apply to information obtained before, as well as to information obtained after, the coming into force of this paragraph.
- 81 (1) Section 439 (disclosure of information to Lord Advocate and to Scottish Ministers) is amended as follows.



*Status: This is the original version (as it was originally enacted).*

- (2) In subsection (1), after “Part 5” insert “or 8”.
- (3) In subsection (5), after paragraph (h) insert—  
    “(i) the Financial Conduct Authority.”
- (4) The amendments made by this paragraph apply to information obtained before, as well as to information obtained after, the coming into force of this paragraph.
- 82 (1) Section 441 (disclosure of information by Lord Advocate and by Scottish Ministers) is amended as follows.
- (2) In subsection (1), after “Chapter 3” insert “or 3A”.
- (3) In subsection (2)—  
    (a) in the words before paragraph (a), after “5” insert “or 8”;  
    (b) in paragraph (d), after “5” insert “or 8”;  
    (c) in paragraph (fa), for the words from “functions” to “Ireland” substitute “functions of a relevant authority, as defined by section 435(4),”;  
    (d) in paragraph (g)—  
        (i) omit “a customs officer or”;  
        (ii) after “Chapter 3” insert “, 3A or 3B”.
- 83 In section 443 (enforcement in different parts of the United Kingdom), in subsection (1) after paragraph (c) insert—  
    “(ca) for an order made by a court under Part 7 in one part of the United Kingdom to be enforced in another part;”.
- 84 In section 445 (external investigations), omit subsection (3).
- 85 In section 450 (pseudonyms: Scotland), in subsection (1)(a), for “or a detained cash investigation” substitute “, a detained cash investigation, a detained property investigation or a frozen funds investigation”.
- 86 In section 453A (certain offences in relation to financial investigators), in subsection (5), at the end of paragraph (d) (before the “or”) insert—  
    “(da) section 303C (powers to search for a listed asset);  
    (db) section 303J (powers to seize property);  
    (dc) section 303K (powers to detain seized property);”.
- 87 (1) Section 459 (orders and regulations) is amended as follows.
- (2) In subsection (3A), at the end insert “or regulations under section 131ZA(7)”.
- (3) In subsection (4), after paragraph (a) insert—  
    “(aza) regulations under section 303B(2), 303G(5), 303W(10), 303Y(2), 303Z8(2) or 303Z18(10);”.
- (4) In subsection (5), in paragraph (a)—  
    (a) after “other than” insert “regulations under section 131ZA(7) or”;  
    (b) after “293(4),” insert “303H(4),”.
- (5) In subsection (6)(b), after “293(4),” insert “303H(4),”.
- (6) After subsection (6) insert—

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“(6ZA) No regulations may be made by the Scottish Ministers under section 131ZA(7) unless a draft of the regulations has been laid before and approved by a resolution of the Scottish Parliament.

(6ZB) No regulations may be made by the Secretary of State under section 303B(2), 303G(5), 303W(10), 303Y(2), 303Z8(2) or 303Z18(10) unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.”

(7) In subsection (6A), after “302(7B)” insert “or of regulations under section 303W(10) or 303Z18(10)”.

(8) In subsection (7A)—

(a) after “302(7B),” insert “303I(4),”;

(b) at the end insert “or regulations under section 303W(10) or 303Z18(10)”.

(9) In subsection (7B), after “302(7B),” insert “303I(4),”.

(10) After subsection (7B) insert—

“(7BA) No regulations may be made by the Department of Justice under section 303W(10) or 303Z18(10) unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.”

(11) In subsection (7D), after “(7B)” insert “, (7BA)”.

88 In section 460 (finance), in subsection (3)—

(a) omit “and” at the end of paragraph (a);

(b) after paragraph (b) insert “, and

(c) any sums received by the Financial Conduct Authority in consequence of this Act are to be paid into the Consolidated Fund.”

*Homelessness etc. (Scotland) Act 2003 (asp 10)*

89 In section 11 of the Homelessness etc. (Scotland) Act 2003 (notice to local authority of proceedings for possession etc.), in subsection (5), after paragraph (f) insert—

“(fa) section 245ZA(2) of the Proceeds of Crime Act 2002 (notice to local authority of application for decree of removing and warrant for ejection),”.

*Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3)*

90 The Bankruptcy and Diligence etc. (Scotland) Act 2007 is amended as follows.

91 (1) Section 214 (expressions used in Part 15) is amended as follows.

(2) In subsection (1)—

(a) omit “and” after the definition of “a decree for removing from heritable property”, and

(b) after the definition of “an action for removing from heritable property” insert—

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““defender”, in relation to a decree for removing from heritable property of the type mentioned in subsection (2)(l), means any person against whom the decree is enforceable.”

(3) In subsection (2)—

- (a) omit “and” at the end of paragraph (j), and
- (b) after paragraph (k) insert “; and
  - (l) a decree of removing and warrant for ejection granted under section 266(8ZA) of the Proceeds of Crime Act 2002.”

92 In section 216 (service of charge before removing)—

- (a) in subsection (1), in paragraph (a), for “14 days” substitute “the appropriate period”, and
- (b) after that subsection insert—

“(1A) In subsection (1)(a), “the appropriate period” means—

- (a) in the case of a decree for removing from heritable property of the type mentioned in paragraph (l) of section 214(2), 28 days,
- (b) in the case of a decree for removing from heritable property of the type mentioned in any other paragraph of that section, 14 days.”

93 In section 218 (preservation of property left in premises), after subsection (2) insert—

“(3) In the application of this section to the granting of a decree for removing from heritable property of the type mentioned in section 214(2)(l), “pursuer” means the trustee for civil recovery who is responsible by virtue of section 267(3)(ba) of the Proceeds of Crime Act 2002 for enforcing the decree.”